

POLICING IN THE UNITED STATES: HAS THE TIME COME  
FOR A FULL-TIME NATIONAL POLICE FORCE?

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Strategic Studies

by

MICHAEL A. CRESPO, U.S. DEPARTMENT OF STATE  
MPA, University of Georgia, Athens, Georgia, 2006  
B.S., Georgia College and State University, Milledgeville, Georgia, 1999

Fort Leavenworth, Kansas  
2016

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Name of Candidate: Michael A. Crespo

Thesis Title: Policing in the United States: Has the Time Come for a Full-time National Police Force?

Approved by:

\_\_\_\_\_, Thesis Committee Chair  
William E. Stebbins Jr., MMAS

\_\_\_\_\_, Member  
Janet G. Valentine, Ph.D.

\_\_\_\_\_, Member  
Dwayne K. Wagner, M.A.

Accepted this 10th day of June 2016 by:

\_\_\_\_\_, Director, Graduate Degree Programs  
Robert F. Baumann, Ph.D.

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## ABSTRACT

POLICING IN THE UNITED STATES: HAS THE TIME COME FOR A FULL-TIME NATIONAL POLICE FORCE? by Michael A. Crespo, 113 pages.

This thesis poses the national policy question of whether the United States has need of a full-time national police force. This paper reviews the history of policing in the United States, the legal environment in which police operate, and the role of the federal government in policing. An examination of the Royal Canadian Mounted Police is used to provide practical examples of advantages and disadvantages of a national police force that operates in a similar environment. The research suggests that while there are no insurmountable obstacles to a national police force, there is currently no need for such an organization.

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## ACRONYMS

BJS	Bureau of Justice Statistics
CALEA	Commission on Accrediting Law Enforcement Agencies
COMPSTAT	Computer Statistics
COR	Corrections
CRCC	Civilian Review and Complaint Commission
CRT	Court Operations
DEA	Drug Enforcement Agency
DHS	Department of Homeland Security
DOJ	Department of Justice
FBI	Federal Bureau of Investigations
FLEO	Federal Law Enforcement Officer
IACP	International Association of Chiefs of Police
INV	Criminal Investigations
LAPD	Los Angeles Police Department
MOU	Memorandum of Understanding
MRAP	Mine Resistant Ambush Protection
NCI	Noncriminal Investigations
NYPD	New York Police Department
OLC	Office of Legal Counsel
POL	Police Patrol
POST	Peace Officer's Standards and Training
RCMP	Royal Canadian Mounted Police
S&P	Security and Protection



UCR	Uniform Crime Report
USC	United States Code

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## CHAPTER 1

### INTRODUCTION

In 2014, there was a series of large-scale protests against uniformed law enforcement in the United States. Beginning in Ferguson, Missouri, and continuing in Baltimore, Maryland, civil unrest stretched local law enforcement resources to their limits. In both cases, rioting reached levels where the respective National Guards of each state were deployed to assist law enforcement with restoring order. National Guard troops (unless branched as military police) are not professional law enforcement personnel,<sup>1</sup> yet in both cases deployed to help enforce the laws of their states and restore order. When looking at other instances of civil unrest in United States history, uniformed military personnel (generally National Guard but sometimes Active Duty) have deployed to help restore order. Although riot control and disaster relief are the most common use of military personnel in a defense support to civil authority capacity, U.S. history shows that it has not been the only application.

When looking at law enforcement in an international context, it is common for nations to have a provider of police services above the local or state police in the form of a national police force. While the legal authority of national police forces vary by nation, the commonality is a professionally trained cadre of law enforcement personnel that can quickly concentrate effort to address a crisis (rioting) or large-scale event (Olympics). The United States has no such national police force upon which to call.

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<sup>1</sup> This does not account for Guardsmen employed within the law enforcement field in their civilian capacity.

Americans have traditionally been leery of federal intrusion into venues viewed as a local concern. While this mistrust remains, the federal government seems more willing to inject itself into controversial matters involving local governance issues. Specifically, the No Child Left Behind Act of 2001 (Public Law 107-110) and the Patient Protection and Affordable Care Act of 2010 (Public Law 111-148) are two examples of federal programs deemed by some as an overreach of federal authority and intrusion into local or state rights.

Local policing remains one of the few areas where the federal government has yet to take a direct role. The United States has strict prohibitions through the Posse Comitatus Act and Insurrection Act on when military personnel can intervene in domestic matters. Yet in times of crisis, there is no alternative than to turn to military forces when local and state police have been overwhelmed. Has the time come for the United States to create a national police force?

#### Primary Research Question

The United States has no national police force to move between the states in support of local or state police when overwhelmed by catastrophic incidents, such as major hurricanes, or stretched beyond their capabilities to manage large-scale events such as the 1992 Los Angeles riots. Additionally, the United States has laws that dictate in narrow terms when and how military forces (both National Guard and Active Duty) can be employed on domestic soil. The primary research question in this thesis is whether the United States needs a full-time national police force.

### Secondary Research Questions

The answer to the primary research question of whether the United States needs a full-time national police force is a function of multiple, secondary research questions.

1. Does it appear legal for the federal government to establish a full-time national police force?
2. Is it feasible for the federal government to establish a full-time national police force?
3. What has the federal government's experience been in policing?
4. Is there a capabilities gap in the nation's policing profession that a national police force could fill?
5. Can the existing organizational structures of the nation's police forces accommodate a national police force?

The question of whether a national police force appears legal is the first question that must be answered. If the current legal environment prohibits such an organization, the primary research question is irrelevant. Furthermore, what legal obstacles would the separation of powers between federal, state, and local governments present to a national police force?

Second, would it be feasible for the federal government to establish a national police force? Could the nation's multitude of criminal justice entities incorporate and support a national police force?

Third, what is the federal government's experience in policing? Does the federal government have experience in providing police services? Has the federal government made any significant contributions to the growth of the policing profession?

Fourth, what capabilities gap, if any, exists that a national police force could fill? Is there a vacuum in the nation's general policing or emergency response capabilities that a national police force can fill?

Finally, can the existing organizational structure of the nation's police forces accommodate a national police force? Could a national police force incorporate into the network of police agencies across the nation without upsetting the established equilibrium? As importantly, would the goals of a national police force be compatible with the goals of the existing state and local police forces?

### Definitions

Criminal Justice System: The criminal justice system is the full spectrum of investigating, prosecuting, and rehabilitation of the criminal element. It includes law enforcement officers (to include prosecutors), the criminal court system, and corrections (to include those agencies involved with incarceration and those involved with probation/parole).

Law Enforcement: Law enforcement is a generic term for the activities of any organization responsible for maintaining order, and enforcing the criminal code with an emphasis on crime prevention, investigation of crimes, and apprehension of criminal suspects.<sup>2</sup> This includes the full-range of law enforcement providers from the smallest city police departments to the 49,000 plus employees of the New York Police Department

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<sup>2</sup> Bureau of Justice Statistics, "Terms and Definitions: Law Enforcement," accessed November 16, 2015, <http://www.bjs.gov/index.cfm?ty=tdtp&tid=7>.

(NYPD), from a state probation officer to a special agent of the Federal Bureau of Investigation (FBI).

National Police: National police refers to a police organization that receives its operational mandate from the national government with no, or limited, jurisdictional limitations within the nation. The organization's mandate requires the full range of police services as previously defined be provided to the communities they serve. The Royal Canadian Mounted Police (RCMP) is an example of a national police force.

Police: Police is another generic term that refers to law enforcement organizations statutorily mandated to provide the full range of law enforcement services. This includes tasks such as prevention of criminality, suppression of crime, apprehension of offenders, regulation of noncriminal conduct, and performance of miscellaneous community services.<sup>3</sup> Miscellaneous community services can include, but is not limited to, such tasks as investigation of traffic accidents, enforcement of local ordinances, or management of a Drug Abuse Resistance Education program in local schools. The New York City Police Department and Los Angeles County Sheriff's Department are two examples of police organizations.

#### Assumptions/Limitations/Delimitations

The following definitions for assumptions, limitations, and delimitations are adapted from those set forth by Drs. Marilyn K. Simon and Jim Goes.<sup>4</sup>

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<sup>3</sup> William J. Bopp and Donald O. Schultz, *Principles of American Law Enforcement and Criminal Justice* (Springfield, IL: Thomas Books, 1972), 201-203.

<sup>4</sup> Marilyn K. Simon, Ph.D. and Jim Goes, Ph.D, "Assumptions, Limitations, Delimitations, and Scope of the Study," accessed June 16, 2016, <http://www.dissertation>

## Assumptions

Assumptions are elements that are considered true based on a preponderance of the evidence. The research moves forward in good faith that these elements are true unless they are proven false. There are two major assumptions in this research. First, the FBI is not a national police force. Second, although the federal code allows for federal police forces, these agencies do not qualify as a national police force.

The FBI does not qualify as a national police force within the definition previously established. They self-identify as a national security agency and explicitly reject identification as a national police force.<sup>5</sup> In addition, the FBI's mission lacks any mandate to proactively prevent criminal conduct or perform any miscellaneous services for the community.

The United States Code (USC) authorizes the establishment of federal police forces such as the Federal Protective Services and Uniform Division of the Secret Service.<sup>6</sup> However, a review of the enabling statutes shows that these organizations are subject to limited jurisdiction. General law enforcement rights are restricted to the geographic boundaries of the District of Columbia. Outside the District of Columbia, these organizations are statutorily restricted to federal property. Based on the national

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[recipes.com/wp-content/uploads/2011/04/Assumptions-Limitations-Delimitations-and-Scope-of-the-Study.pdf](https://www.recipes.com/wp-content/uploads/2011/04/Assumptions-Limitations-Delimitations-and-Scope-of-the-Study.pdf).

<sup>5</sup> Federal Bureau of Investigation, "Frequently Asked Questions," accessed May 29, 2016, <https://www.fbi.gov/about-us/faqs>.

<sup>6</sup> Law enforcement authority of Secretary of Homeland Security for protection of public property, 40 U.S. Code (USC) § 1315 et seq. and Powers, authorities, and duties of United States Secret Service Uniformed Division, 18 USC § 3056A et seq.



police definition established previously, these organizations do not qualify as a national police force.

### Limitations

Limitations are those factors outside the control of the author that impact the course of the research. The first limitation is a lack of scholarly research surrounding the idea of a national police force in the United States. There are publications that address the perceived need or appropriateness of a national police force. However, these writings frequently made unverifiable, conspiratorial claims and failed to utilize analytic methodology in justifying the writer's opinion. As such, these writings were of limited, if any, value. A second limitation is poor documentation of any debate or discussions surrounding law enforcement during the establishment of the national government. Specifically, the research revealed that no significant documentation appears to exist that records the intended role of law enforcement. Given the informal nature of law enforcement in the eighteenth and early nineteenth century this is no surprise, but it still represents an inescapable gap in the literature review.

### Delimitations

Delimitations are factors within the control of the author that have been set as boundaries to control the scope of this thesis. There are three delimitations set in this paper. First, research is limited to the historical review of policing in the United States and legal, organizational, and operational considerations for a national police force. Second, the fiscal consequences surrounding a national police force are omitted due to the complexity of the economics involved. Finally, the political and social consequences

of this policy question are not a point of focus. While both of these viewpoints would be critical in a public debate on the topic of a national police force, they are too big to address in this project and are worthy of their own dedicated research.

### Significance of Research

On July 2, 2008, Senator Barack Obama delivered a prepared speech at the University of Colorado stating, “We cannot continue to rely on our military in order to achieve the national security objectives we’ve set. We’ve got to have a civilian national security force that’s just as powerful, just as strong, just as well funded.”<sup>7</sup>

This eighteen-second sound bite, out of a twenty-six-minute speech, set off a furor among a minority of the U.S. population. The concern centered on various conspiracy theories claiming a federal desire to usurp the Tenth Amendment through creation of some kind of a national police force. Senator Obama’s full speech showed that, taken in context, this sound bite referred to a proposal to expand the Peace Corps and AmeriCorps. Still, it is a valid to ask if the nation relies too much on the military to carry the nation’s national security objectives. While this is understandable overseas, what about domestically? The historical record shows a clear reliance on military personnel to backstop civilian institutions. Should a national police force be part of a civilian national security force? This question has never been publicly debated as part of the national security strategy. The intent of this thesis is to serve as a starting point for further

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<sup>7</sup> BarackObama.com, “Barack Obama: Call to Service in Colorado Springs, CO,” YouTube, July 2, 2008, accessed November 1, 2015, [https://www.youtube.com/watch?v=Df2p6867\\_pw](https://www.youtube.com/watch?v=Df2p6867_pw).

research and discussion in the event the nation ever explores the question of whether a national police force is needed.

### Conclusion

This chapter established the primary research question of whether the United States needs a full-time national police force as well as the five secondary research questions. Definitions, assumptions, limitations, and delimitations were established. Chapter 2 contains the review of the available literature to answer the primary and secondary research questions.

## CHAPTER 2

### LITERATURE REVIEW

#### Introduction

Chapter 1 established the primary and secondary research questions. This chapter contains the background needed to address those questions. The evolution of policing in the United States, the federal role in policing, the legal environment the police operate in, and a census of nation's law enforcement personnel are included. A review of how police agencies are structured within the framework of organizational theory models is incorporated and the chapter concludes with a case study of the RCMP.

#### The Evolution of Policing in the United States

To address whether the United States needs a full-time national police force, it is necessary to understand how policing has evolved in the United States. A review of multiple publications on the history of policing in the United States showed an apparent randomness in the organization of the information presented. There is no consistent compartmentalization of the data into eras of policing or stages of evolution in policing. For example, in William J. Bopp and Donald O. Schultz's *Principles of American Law Enforcement and Criminal Justice* the history of American policing is divided into ten time periods from 1607 until 1970. Samuel Walker's *The Police in America: An Introduction* divides the same time span into six periods.

In this paper, the history of policing is organized into four distinctly different eras based on each era's defining characteristic. This concept is borrowed directly from the field of military history and the idea of revolutions in military affairs. A revolution in

military affairs is roughly defined as a fundamental shift in the nature of warfare that had a profound effect on how war is waged. The dropping of the first nuclear bomb signaled one such revolution in military affairs that ushered in the nuclear age. There is no reason that the history of policing cannot be divided in a similar manner with each era ushered in by a revolution in police practices.

A revolution in police practices is characterized by a fundamental change in policing that alters how the profession is practiced. An examination of the history of policing in the United States reveals four distinct eras of policing. The author defines these eras as the volunteer era, the transformation era, the professional era, and the homeland security era.

#### The Volunteer Era—Jamestown to 1830

The volunteer era of policing began with the arrival of the first permanent European settlements in North America in the early 1600s and concludes in the 1830s when the first major municipal police departments were formed. This era represents the introduction of European social constructs to the North American continent. During this period, policing within the colonies (later the United States) was a social responsibility performed as an obligatory collateral duty by adult males. In many cases, service on the “watch” was compulsory with attempts to avoid service common.<sup>8</sup> There was no training, no special equipment, and the concept of a paid police officer was decades away from development. This era was plagued by corruption and inefficiency.

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<sup>8</sup> Samuel Walker, *The Police in America, An Introduction* (New York: McGraw-Hill, 1983), 4-5.

In the English colonies of the early 1600s, the policing function (referred to in the vernacular of the day as the night watch) was a jack-of-all-trades assignment. Individuals served a nighttime watch responsible for maintenance of order, prevention of fire, and warned of approaching hostile natives. Because the colonists lived in small settlements, anonymity did not exist and the ability for one to commit a crime, particularly a serious crime, and avoid detection was unlikely. The small populations in these settlements allowed social pressure to force compliance with established norms and served as the primary method of civil control.<sup>9</sup>

As the populations in the colonies grew, social interactions became more complicated and the need for a formalized system of law enforcement emerged. Drawing from their English Common Law roots, colonists established the positions of sheriff and constable (to supplement the aforementioned night watch). During this era, the sheriff was the primary government agent of the county and directly appointed by the colonial governor. While the sheriff held law enforcement responsibilities, he also held civil responsibilities such as collection of taxes, conducting elections, and maintenance of bridges and roads.<sup>10</sup> The constable held similar duties as the sheriff, though jurisdiction was limited to the city or town rather than the county.

As the colonies expanded, colonial leaders created uniform legal statutes within their respective colony. These statutes established the earliest, formal criminal justice systems in North America. Connecticut's *Fundamental Orders of 1639* represents one of

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<sup>9</sup> Martin Alan Greenberg, *Citizens Defending America, From Colonial Times to the Age of Terrorism* (Pittsburg, PA: The University of Pittsburgh Press, 2005), 21-22.

<sup>10</sup> Walker, 4.

the earliest codified mandates to law enforcement from the colonial leaders. Order Six required, “That the Governor shall, either by himself or by the Secretary, send out summons to the Constables of every Town for the calling of these two standing Courts one month at least before their several times.”<sup>11</sup> This was not the only mandate to the constabulary. Order Seven required that the constabulary publicly assemble the inhabitants of their town to elect deputies who would then schedule and manage General Court proceedings. While the *Fundamental Orders of 1639* did not prescribe direct police authorities, they are representative of the shift from the ad hoc law enforcement of the earlier colonial settlements towards a formal, codified system of criminal statutes and corresponding punishments.<sup>12</sup> While other colonies (and later states) followed Connecticut’s example, law enforcement saw no significant innovation during the volunteer era and professional maturation stalled until the 1830s.

Law enforcement and policing during the volunteer era was, practically speaking, non-existent. The night watch was the closest thing to a police apparatus during this period as they actively worked to preserve order through detection of crime, but did little to try to prevent crime. Sheriffs and constables held law enforcement responsibilities, but responded to criminal activity after the fact, provided no investigative follow-up, and performed no proactive police function. Both offices relied on a fee system from the issuance of warrants, holding of prisoners, etc., to fund their activities. This resulted in a

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<sup>11</sup> The two standing courts referenced refer to the Elections Court and General Court established in Order 5 in the referenced document.

<sup>12</sup> Lillian Goldman Law Library, “Fundamental Orders of 1639,” Yale Law School, accessed November 27, 2015, [http://avalon.law.yale.edu/17th\\_century/order.asp](http://avalon.law.yale.edu/17th_century/order.asp).

heavily politicized law enforcement environment where the potential for abuse and corruption was ripe.<sup>13</sup>

#### The Transformation Era—1830s to 1905

The transformation era of policing in the United States began in the 1830s with the founding of the first police departments and ended in 1905 with the early steps towards professionalization. The transformation era was characterized by the evolution of the volunteer night watch towards full-time, paid police officers. The concept of standardized police practices are seen during this era as well as the organization of police personnel into specialized investigative units. Corruption and politicization remained a problem.

The explosion in urban populations directly led to the end of the volunteer era. In 1790, the first U.S. Census recorded a population of roughly 3,627,000.<sup>14</sup> By the fifth U.S. Census in 1830, this number had grown to approximately 12,858,700. Urbanization had taken hold with the populations of the largest cities at approximately 202,600 in New York City, 188,900 in Philadelphia, and 120,900 in Baltimore.<sup>15</sup> As urban populations

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<sup>13</sup> Walker, 5.

<sup>14</sup> U.S. Department of State, *Return of the Whole Number of Persons within the Several Districts of the United States According to An Act Providing for the Enumeration of the Inhabitants of the United States* (Philadelphia, PA: J. Phillips, George-Yard, Lombard-Street, 1793), U.S. Census Bureau, accessed November 28, 2015, <http://www2.census.gov/prod2/decennial/documents/1790a.pdf>.

<sup>15</sup> U.S. Department of State, *1840 Census: Compendium of the Enumeration of the Inhabitants and Statistics of the United States* (Washington, DC: Thomas Allen, 1841), U.S. Census Bureau, accessed June 16, 2016, <http://www.census.gov/library/publications/1841/dec/1840c.html>.



grew, the anonymity of the inhabitants increased. This resulted in a breakdown of voluntary compliance to social norms as the dominant control mechanism. In population dense urban areas, criminal behavior could be conducted incognito. Government officials in the United States looked to the work done by Sir Robert Peel in his founding of the London Metropolitan Police in 1829 as a means to restore order.

Though there is inconsistency with the precise year, Philadelphia is credited with establishing the first police force in the United States in 1833 when the city hired twenty-four policemen to work during the day while 120 watchmen continued to patrol at night. After approximately two years of operation, the department folded. Philadelphia resurrected its police department in 1848 that, as before, patrolled during the day while the night watch continued operations after dark. In 1854, the night watch was consolidated into the police department, which was now headed by a marshal elected by the people of Philadelphia.<sup>16</sup>

The police in Philadelphia were not the only ones to face growing pains. Faced with the highest crime rates in the United States, New York City established its municipal police in 1845, modelling it after Peel's London Metropolitan Police. The municipal police quickly gained criticism for allegations of graft and its use as a political tool by the mayor's office.<sup>17</sup> The dysfunction came to a head in the first half of 1857 when the New York state government established the New York City Metropolitan Police managed by the state government appointed Metropolitan Police Commission. The city government

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<sup>16</sup> Bopp and Schultz, 35-36.

<sup>17</sup> Thomas A. Reppetto, *American Police, the Blue Parade, a History, 1845-1945*, 2nd ed. (New York: Enigma Books, 2011), 42-46.

was outraged by what was considered state intrusion on a city matter.<sup>18</sup> The New York City mayor refused to disband the municipal police. As a result, New York City was serviced by two police departments that fought each other as often as they fought the criminal element. It was not until the fall of 1857 that the mayor relented and disbanded the municipal police, leaving the state-managed metropolitan police as the sole provider of policing services in the city.

Though a smaller city, Boston began efforts to establish a full-time police department in 1837. In several respects, Boston was more innovative with its police than the forces in Philadelphia and New York City. First, the police were not funded through a fee system. Second, shifts of police officers were required to work around-the-clock contrary to custom of only working during daylight hours and relinquishing duties to the night watch at sunset. Finally, the police were expected to work towards preventing criminal behavior rather than only responding to crime after the fact.<sup>19</sup> Despite having only twenty officers on the night shift, the new police force frequently stopped more crime than the city's night watch that numbered over two-hundred men. Meeting with success, policing in Boston expanded. In 1851, Boston established the nation's first detective division creating a formalized system for the protracted investigation of crimes. Boston followed up in 1853 with the nation's first harbor patrol that worked to bring order to the city's raucous waterfront. These two specialized units set the precedent in

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<sup>18</sup> Edwin G. Burrows and Mike Wallace, *A History of New York City to 1898* (New York: Oxford University Press, 1999), 838.

<sup>19</sup> Roger Lane, *Policing the City, Boston 1822-1885* (Cambridge, MA: Harvard University Press, 1967), 29-35.

policing for establishing dedicated units that focused their efforts towards specific issues affecting their community.<sup>20</sup>

The challenges in policing faced by Philadelphia, New York City, and Boston were representative of those faced by all the nation's cities as they struggled to provide order within their growing populations. The shift to full-time police departments did not come overnight. Policing in the west was not comparable to what was seen in the major cities. Likewise, policing in the south during Reconstruction and the immediate years after followed a different path. By the beginning of the twentieth century though, policing in the United States had transitioned away from the constabulary and night watch to full-time police departments. The transitional era ended in 1905 when newly elected Town Marshal Augustus Vollmer began experimenting to elevate police work from a vocation to a profession.

#### The Professional Era—1905 to 2001

The professionalization of policing in the United States began in April of 1905 with the election in Berkley, California of Town Marshal August Vollmer (later to become Berkley's first Chief of Police in 1909) and ended in September of 2001.<sup>21</sup> In the years immediately following his election, Vollmer became known throughout California for actively seeking assistance from traditional sources (law enforcement peers), as well

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<sup>20</sup> Lane, 100.

<sup>21</sup> M. J. Holland, "Berkley Police Town Marshals and Chiefs of Police," Berkley Police Department, last revised December 4, 2011, accessed December 5, 2015, [http://www.ci.berkeley.ca.us/uploadedFiles/Police/Level\\_3\\_-\\_General/BPD%20Chief%20List.pdf](http://www.ci.berkeley.ca.us/uploadedFiles/Police/Level_3_-_General/BPD%20Chief%20List.pdf).

as non-traditional sources (university professors) on criminal cases that had his department stumped. To further his understanding of the criminal psyche, he frequently interviewed criminals as to their motives and methods, disseminating this information to other police agencies. This marked the beginning of what in today's vernacular is known as intelligence-based investigations.<sup>22</sup>

Vollmer began his contribution to policing as a profession in 1907 when he established the police school in Berkley to teach technical and theoretical policing skills to his officers.<sup>23</sup> Berkley's police school is believed to be the world's first dedicated police training center.<sup>24</sup> Reflecting on this in 1917, August Vollmer and Albert Schneider wrote:

A few years ago the only requirement necessary for the appointment as a policeman was a political pull and brute strength . . . No preliminary training was necessary, and the officers were considered sufficiently equipped to perform their duties if they were armed with a revolver, club and hand-cuffs, and wore a regulation uniform.<sup>25</sup>

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<sup>22</sup> Nathan Douthit, "August Vollmer, Berkley's First Chief of Police, and the Emergence of Police Professionalism," *California Historical Quarterly* 54, no. 2 (Summer 1975): 105-106, accessed November 29, 2015, <http://www.jstor.org/stable/25157560>.

<sup>23</sup> There is some disagreement in the literature as to whether the school started in 1907 or 1908. The author chose to accept 1907 as the most likely year since the Berkley Police Department's official website publishes that as the year they founded their police school.

<sup>24</sup> Berkley Police Department, "City of Berkley Police Department, The Earliest Years 1905-1925, First in Policing," accessed December 5, 2015, [http://www.ci.berkeley.ca.us/Police/Home/History\\_The\\_Earliest\\_Years\\_1905-1925.aspx](http://www.ci.berkeley.ca.us/Police/Home/History_The_Earliest_Years_1905-1925.aspx).

<sup>25</sup> August Vollmer and Albert Schneider, "The School for Police as Planned at Berkley," *Journal of the American Institute of Criminal Law and Criminology* 7, no. 6 (March 1917): 877, accessed November 29, 2015, [http://www.jstor.org/lumen.cgscarl.com/stable/1133670?seq=1#page\\_scan\\_tab\\_contents](http://www.jstor.org/lumen.cgscarl.com/stable/1133670?seq=1#page_scan_tab_contents).

The Berkley Police Department may have been the first agency to establish a police school, but the wisdom of the move was quickly adopted elsewhere. The New York City Police Department established their police academy in 1909, Detroit established one in 1911, and Philadelphia followed suit in 1913.<sup>26</sup>

Vollmer's drive to improve the quality of policing in Berkley did not stop with his drive to educate his officers. Berkley was one of the first departments to use bicycles in 1910 to improve response time, the first to utilize motorcycles in 1911, was among the first to have officers in automobiles in 1913, and by 1914 was the first department to have all officers patrolling from automobiles.<sup>27</sup> In 1916, Vollmer hired a civilian (Dr. Albert Schneider, professor of pharmacy and bacteriology) to head Berkley's forensics lab while also helping establish the first School of Criminology at the University of California, Berkley.<sup>28</sup> Under Vollmer, the Berkley Police Department became the first in the nation to require psychological and intelligence screening of police candidates, the first to recruit college graduates, and the first to utilize polygraphs in criminal investigations.<sup>29</sup>

Vollmer found fertile ground in Berkley to innovate and experiment with police professionalism and gained the interest of police chiefs and sheriffs across the country. By 1913, the Berkley Police Department began hosting visitors to see the innovative

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<sup>26</sup> Bopp and Schultz, 84-85.

<sup>27</sup> Berkley Police Department, "City of Berkley Police Department."

<sup>28</sup> Douthit, 107; Berkley Police Department, "City of Berkley Police Department."

<sup>29</sup> Douthit, 107-108.

police department first hand. Over the next twenty years, Vollmer served as a consultant to countless police departments likewise trying to professionalize. His ideas were reaching those who could not travel to California through informal police organizations such as the International Association of Chiefs of Police (IACP).<sup>30</sup> In addition to his police work, Vollmer was appointed as the first professor of police administration at the University of Chicago and served on President Herbert Hoover's National Commission on Law Observance and Enforcement (also known as the Wickersham Commission).<sup>31</sup> Through his work as police chief and in consulting and teaching positions, Vollmer's philosophy on police professionalism took root across the United States.

As the United States fell into economic depression in the late 1920s, policing found itself not only insulated from the crash, but also benefiting from it. Due to the contraction in private sector employment, public sector positions were highly sought. For the first time, the nation's police chiefs and sheriffs were able to take their pick from the labor force. Large numbers of college graduates filled the ranks in the nation's police departments. Colleges established degree programs related to criminal justice and police studies. In 1931, San Jose State College offered the nation's first college degree in police studies and by the end of the 1930s, over twenty colleges offered similar degrees. Chief Orlando Winfield Wilson (commonly referred to as O.W. Wilson) of the Wichita Police

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<sup>30</sup> An overview of the IACP is in the Independent Police Institutions section of this chapter.

<sup>31</sup> Douthit, 107-109.

Department began the nation's first police cadet program in 1935 when he hired college undergraduates for part-time employment as part of their studies.<sup>32</sup>

The depression also brought improvement to police infrastructure courtesy of the Works Progress Administration. In the attempt to put Americans back to work, new police stations, jails, prisons, and training facilities were constructed. The construction of state police academies occurred across the nation.<sup>33</sup> In reference to these early state academies, Bopp and Schultz write, "The impact of these early schools cannot be overstated, for they motivated municipal departments to implement training programs of their own, although municipal training programs were to lag sadly behind their state counterparts."<sup>34</sup>

The 1940s saw a pause in police professionalization. With the nation's entry into World War Two, police agencies struggled to fill their ranks as officers left for the armed forces or war production employment. To fill the void, departments utilized part-time auxiliary and volunteer officers to fill administrative roles or serve as a second officer in the patrol car, supporting the full-time civil service police officer. When the war ended, many veterans returned to their departments while others sought to begin a career in law enforcement. Police forces nationwide received an infusion of disciplined, mature police officers. Police officers found their access to college police study programs bolstered through the spread of community colleges. This opened the door for older officers to

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<sup>32</sup> Bopp and Schultz, 112-113; Chief Wilson, incidentally, began his policing career under Chief Vollmer in Berkeley.

<sup>33</sup> Bopp and Schultz, 111-113.

<sup>34</sup> Ibid., 111.

pursue a college education while working and helped to further educate the nation's police forces.<sup>35</sup>

During the 1950s, Chief William Parker with the Los Angeles Police Department (LAPD) set that decade's standard for police professionalization. Parker immediately mandated a paramilitary style basic training course for officers while establishing minimum standards of physical fitness that they had to maintain. Recognizing both the power of media and his unique access to Hollywood, Parker created a media relations division tasked with making sure the LAPD received not only favorable press, but also favorable portrayal in the entertainment industry.<sup>36</sup> Parker's innovations were not only superficial. He established the nation's first internal affairs section, dedicated solely to the investigation of police misconduct allegations. He established both a criminal intelligence and a planning and research division so the LAPD could plan for the future rather than react to it. Finally, Parker stressed the importance of improving community relations. The LAPD model for policing spread across the nation and was considered all that was right and proper with policing during the 1950s.<sup>37</sup>

In 1959, California became the first state to establish a Peace Officer's Standards and Training (POST) Council. The California POST Council was the first organization to establish mandatory standards for basic training and continuing education for all peace officers across the state. California's POST model spread across the nation and today all

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<sup>35</sup> Ibid., 117-123.

<sup>36</sup> Thomas A. Reppetto, *American Police, a History, the Blue Parade, 1945-2012* (New York: Enigma Books, 2012), 35-36.

<sup>37</sup> Bopp and Schultz, 127-130.



states have some type of state certification board that ensures police personnel meet their minimum training standards.

Unfortunately, the 1950s was the last shining decade of the professional era of policing. The work begun by Vollmer and continued by individuals such as Parker continued to spread, but as the nation went through massive social upheaval in the 1960s, so too did policing. In the south, some police agencies utilized brute force to disband segregation protests. This left the nation aghast, giving a black eye to all southern law enforcement. When riots broke out in major cities across the nation, police forces found themselves unequipped and untrained to handle the chaos. Crime rates rose throughout the decade.

The 1970s saw much of the same public disorder that tapered down towards a social depression as the decade progressed. A cocaine epidemic began in the mid-1970s, and policing during the 1980s is remembered as street warfare among drug gangs intent on controlling the lucrative narcotics trade. The 1960s, 1970s, and 1980s were a reactionary period for policing. Facing shifting societal norms, increased crime rates, and an epidemic drug trade, the nation's police were too busy trying to keep their heads above water to institute meaningful change. It was not until the 1990s, the last full decade of the professional era, that the police were able to catch their breath long enough to evaluate policing methods used over the last thirty years.

The 1990s saw the last major innovation of this era in policing. Originating in New York, the NYPD's Computer Statistics system (COMPSTAT) was the first use of compiled police statistics (calls for service, arrests, criminal complaints, etc.) to provide

an intelligence-based overview of crime within a jurisdiction.<sup>38</sup> COMPSTAT was not just raw data. It was a holistic approach to policing comprised of five parts: accurate and timely intelligence to identify the problem, effective tactics to address the problem, rapid deployment of those tactics, relentless follow-up, and continuous assessment to anchor gains.<sup>39</sup> Through implementation of the COMPSTAT model, New York City saw a rapid drop in criminal behavior. By the mid-1990s, crime in New York City had plummeted across most categories (such as burglary, robbery, and murder) by over 40 percent from the immediate years before COMPSTAT was introduced.<sup>40</sup>

To credit COMPSTAT with New York City's reduction in crime is debatable. Throughout the 1990s crime across the nation declined. Regardless, COMPSTAT had the attention of police administrators across the nation. It is estimated that by the turn of the millennium over one-third of the police agencies in the United States with over one hundred officers had a COMPSTAT based program in place.<sup>41</sup> In a 2013 report of COMPSTAT proliferation and use, 79 percent of responding agencies reported using a COMPSTAT style system.<sup>42</sup>

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<sup>38</sup> COMPSTAT is frequently seen as an acronym for Computer Statistics as well as Comparative Statistics.

<sup>39</sup> University of Maryland, "Implementing and Institutionalizing COMPSTAT in Maryland," accessed February 6, 2016, [http://www.compstat.umd.edu/what\\_is\\_cs.php](http://www.compstat.umd.edu/what_is_cs.php).

<sup>40</sup> Reppetto, *American Police, 1945-2012*, 162-169.

<sup>41</sup> *Ibid.*, 162-169.

<sup>42</sup> Bureau of Justice Assistance, U.S. Department of Justice, *COMPSTAT: Its Origins, Evolutions, and Future in Law Enforcement Agencies* (Washington, DC: Police Executive Research Forum, 2013), accessed February 6, 2016, <http://www.policeforum.org>.

The professional era of policing spanned approximately ninety-five years. During these years policing nationwide grew from a vocation to a profession characterized by a body of knowledge unique to the field, formalized training to impart this knowledge, and professional standards of conduct. The era came to a sudden halt with the attacks on September 11, 2001 and the addition of homeland security responsibilities on police personnel.

#### The Homeland Security Era—2001 to Present

Based on preliminary changes within the policing profession, a homeland security era of policing began following the attacks in New York and Virginia on September 11, 2001. This most recent era is still developing and its long-term impact on policing has yet to be determined. To date, this era is characterized by increased deployment of military equipment, use of military terminology, and tactical training by the nation's police forces.

Since the 2001 attacks, the nation's police forces have taken on the role of homeland security forces to supplement their traditional role as peacekeepers. This new role has led to the militarization of police departments as rifles, protective equipment, and tactics normally reserved for special weapons and tactics teams have trickled down to the patrol officer. This equipment has come to the departments through two major venues: first, the Department of Defense 1033 program that repurposes surplus military equipment; and second, federal grants provided by the Department of Homeland Security (DHS).

Research by National Public Radio in 2014 revealed that between 2006 and 2014 the 1033 program supplied over \$1.5 billion in surplus military goods to police agencies across the nation. Included in this were over 600 Mine Resistant Ambush Protection (MRAP) vehicles, over 79,000 rifles, over 200 grenade launchers, and over 15,000 edged weapons such as combat knives and bayonets.<sup>43</sup> This equipment has not been limited to large police agencies or special weapons and tactics teams. A 2014 article by the *Huffington Post* cited a Chronicle of Higher Education report that colleges nationwide utilized the 1033 program to obtain M-16 and M-14 rifles as well as MRAPs for their campus police departments.<sup>44</sup> In a separate article, the *Huffington Post* reported that as of 2014, over thirty municipal school districts had equipped their police officers with M-16 rifles and MRAPS obtained through the program.<sup>45</sup>

The 2014 riots in Ferguson, Missouri, brought the 1033 program to the public's attention following images of heavily armed police confronting protestors. As the extent of the program became known, bipartisan support to reform it grew. In May of 2015, President Obama announced a ban on the transfer of certain categories of equipment

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<sup>43</sup> Arezou Rezvani, Jessica Pupovac, David Eads, and Tyler Fisher, "MRAPS and Bayonets: What We Know about The Pentagon's 1033 Program," National Public Radio, September 3, 2014, accessed March 14, 2016, <http://www.npr.org/2014/09/02/342494225/mraps-and-bayonets-what-we-know-about-the-pentagons-1033-program>.

<sup>44</sup> Tyler Kingkade and Alexandra Svokos, "Campus Police are Stocking up on Military-Grade Weapons," *Huffington Post*, September 16, 2014, accessed March 14, 2016, [http://www.huffingtonpost.com/2014/09/15/campus-police-weapons\\_n\\_5823310.html](http://www.huffingtonpost.com/2014/09/15/campus-police-weapons_n_5823310.html).

<sup>45</sup> Rebecca Klein, "These Are The School Districts around the Country with Military Supplies," *Huffington Post*, September 17, 2014, accessed March 14, 2016 from: [http://www.huffingtonpost.com/2014/09/17/school-military-supplies\\_n\\_5832484.html](http://www.huffingtonpost.com/2014/09/17/school-military-supplies_n_5832484.html).

(tracked armored vehicles, bayonets, armed aircraft, etc.) and increased accountability for others (armored vehicles, riot gear, etc.).<sup>46</sup>

As large as the 1033 program is, DHS grant programs are larger. In a 2012 report, U.S. Senator Tom Coburn documented over \$35 billion in grants provided by DHS since its inception, of which \$7.1 billion was provided to state and local government through the Urban Areas Security Initiative program between 2003 and 2012.<sup>47</sup> To be clear, not all of this money went to police agencies. The DHS Office of the Inspector General found that DHS maintained little oversight or accountability for grant programs. As a result, it is unknown how much of this money went for police purposes.<sup>48</sup> However, Senator Coburn's report documented a common use of Urban Areas Security Initiative grants to purchase armored vehicles for police agencies. The practice became so widespread that many armored vehicle manufacturers provide grant writing assistance to agencies seeking Urban Areas Security Initiative grants.<sup>49</sup>

According to Associate Law Professor (and former police officer) Arthur Rizer, the outfitting of police with military equipment and emphasis on tactical training resulted

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<sup>46</sup> Casey Harper, "Obama Curbs Militarization of Police," *Daily Caller*, May 18, 2015, accessed March 14, 2016, <http://dailycaller.com/2015/05/18/obama-curbs-militarization-of-police/>.

<sup>47</sup> Senator Tom Coburn of Oklahoma, "Safety at any Price: Assessing the Impact of Homeland Security Spending in U.S. Cities," U.S. Senate, December 2012, accessed March 14, 2016, <https://www.hsdl.org/?abstract&did=726637>, 1-3.

<sup>48</sup> Office of Inspector General, U.S. Department of Homeland Security, OIG-09-81, *Management Advisory Report: Accountability for Property Purchased Through Grant Funding* (Washington, DC: U.S. Department of Homeland Security, May 4, 2009), accessed March 15, 2016, [https://www.oig.dhs.gov/assets/Mgmt/OIG\\_09-81\\_May09.pdf](https://www.oig.dhs.gov/assets/Mgmt/OIG_09-81_May09.pdf).

<sup>49</sup> Coburn, 36-41.

in an unintended consequence of creating an “us versus them” mentality among the nation’s police personnel towards society.<sup>50</sup> Rizer postulates that the growing divide between the police and the populace is accelerating a “mission creep from protecting and serving to soldiering.”<sup>51</sup> He observes that if the nation continues to equip and train police officers like soldiers, it should come as no surprise if they start acting like soldiers.<sup>52</sup>

There is no shortage of literature on the militarization of the police. *Huffington Post* writer, and previous Cato Institute policy analyst, Radley Balko’s 2013 book, *Rise of the Warrior Cop*, dedicates almost 400 pages to what he describes as a gradual shift from the police as peace keepers to soldiers beginning as early as the 1960s. Attorney John Whitehead’s 2015 book, *Battlefield America: The War on the American People*, likewise describes a police mentality at odds with the protections guaranteed in the Constitution.

However, there are opposing views, which deserve consideration. Police Officer Doug Deaton points out that many of the complaints of overly aggressive police tactics focus on a narrow view of the incident in question disregarding the information that led to the confrontation. He further points out that critics largely ignore court rulings that

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<sup>50</sup> Arthur Rizer, “The Militarization of Police: Is it a Battle of Equipment or Mentality? (Part 1 of 3),” *Huffington Post*, May 22, 2015, updated June 4, 2015, accessed March 14, 2016, [http://www.huffingtonpost.com/arthur-rizer/the-militarization-of-the-police\\_b\\_7425432.html](http://www.huffingtonpost.com/arthur-rizer/the-militarization-of-the-police_b_7425432.html).

<sup>51</sup> Arthur Rizer, “The Militarized Mentality of the Police (Part 2 of 3),” *Huffington Post*, May 28, 2015, accessed March 14, 2016, [http://www.huffingtonpost.com/arthur-rizer/the-militarized-mentality\\_b\\_7462878.html](http://www.huffingtonpost.com/arthur-rizer/the-militarized-mentality_b_7462878.html).

<sup>52</sup> Arthur Rizer, “Mission Creep: The Danger of Blurring Police Blue with Soldier Green (Part 3 of 3),” *Huffington Post*, June 4, 2015, updated June 4, 2015, accessed March 14, 2016, [http://www.huffingtonpost.com/arthur-rizer/mission-creep-the-danger\\_b\\_7512814.html](http://www.huffingtonpost.com/arthur-rizer/mission-creep-the-danger_b_7512814.html).

exonerate police actions. Deaton specifically cites Balko's writings as guilty of this bias. He states that the accusations of police militarization are based more on the physical appearance of the officers rather than their actions. Deaton points out that the, "Use of specialized equipment and protective gear by firefighters, athletes, and race car drivers is seen as a logical response to potential hazards. The cop who uses a helmet, rifle-rated body armor, and an AR-15 to deal with dangerous criminals is deemed guilty of 'overkill'." <sup>53</sup> Referring specifically to the argument against police use of armored vehicles such as MRAPs, National Rifle Association producer Rick Stewart writes, "U.S. citizens have no problem with security companies driving armored vehicles to protect our money. We have no beef with using them to protect presidents and dignitaries. Why, then, is it considered unacceptable to protect law enforcement officers?" <sup>54</sup>

Finally, retired Army officer and columnist Lance Eldridge points to the people as the source of police militarization. Eldridge makes the argument that militarized equipment and tactics could not be acquired by police agencies without the approval of the political entities for which they work. Furthermore, the court system to which the

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<sup>53</sup> Doug Deaton, "Police Militarization and One Cop's Humble Opinion," PoliceOne.com, August 15, 2013, accessed March 14, 2016, <http://www.policeone.com/Officer-Safety/articles/6390637-Police-militarization-and-one-cops-humble-opinion/>.

<sup>54</sup> Rick Stewart, "If You Were a Cop, What Would You Drive?" *NRA–American Warrior* 22: 148, accessed March 14, 2016, <http://viewer.zmags.com/publication/f58ad46a#f58ad46a/1>.

nation's police are accountable both criminally and civilly have shown no inclination to rule against the police on this subject.<sup>55</sup>

Militarization of the nation's police forces since September 2001 is a fact. How far this trend will go is yet to be seen. Due to the strong emotions both for and against this transformation, it is too soon to assess whether this is a positive or negative change. Most importantly, it is too soon to determine what the long-term impact on the profession of policing will be.

### Federal Role in Policing

#### Introduction

Throughout the history of the United States, there has been a clear disconnect between state and local government responsibility for police services and involvement by the federal government. By and large, the federal government has shown little interest in the day-to-day operations of the nation's police forces so long as they maintained order and did not cause bigger problems than they solved. When local police agencies found themselves overwhelmed by events, federal law enforcement (generally in the form of the U.S. Marshals), the National Guard, or Active Duty soldiers have intervened.

Historically, interaction between the nation's police agencies and the federal government has occurred through the rulings of federal courts. These rulings have helped set the boundaries in which police agencies perform their duties. Since the mid-1990s, the Department of Justice (DOJ) has taken an unprecedented role in the management of local

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<sup>55</sup> Lance Eldridge, "Police Militarization and Rise of the Warrior Journalist," PoliceOne.com, August 16, 2013, accessed March 14, 2016, <https://www.policeone.com/militarization/articles/6390824-Police-militarization-and-rise-of-the-warrior-journalist/>.



police agencies via consent decrees. In these cases, the DOJ's Office of Civil Rights found widespread violations of the populace's civil rights by local police agencies. The ensuing consent decrees placed these agencies under de facto federal control.

### History of Federal Involvement in Policing

During the volunteer era of policing, the federal government largely abstained from law enforcement matters. The U.S. Postal Inspectors claim the title of oldest federal law enforcement agency as their "surveyors" audited postal records as early as 1772.<sup>56</sup> The U.S. Marshals were established as part of the Judiciary Act of 1789, but their concerns were limited to providing service to the courts. Also in 1789, the Tariff Act created the position of U.S. Treasury customs agents to collect taxes due the federal government. Over time, these agents evolved and took on a directed law enforcement role aimed at counter smuggling operations and enforcement of import and export regulations.<sup>57</sup> These three agencies, each with a specific duty of federal interest, were the extent of the federal government's law enforcement capability. While the U.S. Marshals took a limited policing role in the territories during the nation's westward expansion, this was not by design but rather a necessity of the fact they were often the sole government representative available.

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<sup>56</sup> U.S. Postal Inspection Service, "A Chronology of the United States Postal Inspection Service," U.S. Postal Service, accessed April 28, 2016, <https://postalinspectors.uspis.gov/aboutus/History.aspx>.

<sup>57</sup> The U.S. Revenue-Marine, a legacy agency of the U.S. Coast Guard, was established in 1790 as seaborne customs agents serving under the U.S. Treasury.

While the federal government was not heavily involved in the enforcement of law, they were involved in the maintenance of order. With no professional police forces available during the volunteer era, it fell upon federal troops to suppress uprisings such as Shay's Rebellion in 1786 and the Whiskey Rebellion in 1791. Even with the establishment of the early police forces during the transformation era, federal troops under military command were frequently used to enforce the laws and suppress riots. This changed slightly in 1850 when the U.S. Marshals were given authority to call upon federal soldiers, sailors, and marines to assist in the execution of their legal duties, specifically enforcement of the Fugitive Slave Law.<sup>58</sup> Therefore, while federal troops were still used as the strong arm of the law, now they were nominally under the command of an officer of the court.

During the Civil War, the federal government found itself heavily invested in domestic policing issues, and as in earlier years had no tool to utilize except military forces. Union soldiers were frequently called upon to suppress draft riots in the major cities after they had devolved into giant street brawls between the protestors and police. In the aftermath of the Civil War, federal troops served as an occupying force in the former Confederacy, responsible for the full gamut of police services while new civil institutions were built. Use of federal troops in the southern states was not without critics, resulting in the passage of 18 USC § 1385, generally known as the Posse Comitatus Act,

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<sup>58</sup> Robert W. Coakley, *The Role of Federal Military Forces in Domestic Disorder, 1789-1878* (Washington, DC: Center for Military History, U.S. Army, 1988), 129.

which banned the use of army troops in domestic matters unless authorized by the Constitution or Congress.<sup>59</sup>

Following the end of Reconstruction in the south, federal involvement in policing returned to riot control and strike busting in the western territories. Troops were used to maintain order in the east during the Pullman Strikes of the 1890s and the Bonus Army March in 1932.<sup>60</sup> With the passage of the 18th Amendment to the U.S. Constitution in 1920 prohibiting alcohol, the federal government found itself forced to take an active role in law enforcement. Revenue Agents of the U.S. Treasury Department and Special Agents of the Bureau of Investigation (predecessor of the FBI) were heavily involved in assisting local police and conducting autonomous investigations to combat the growing organized crime groups growing rich off the income from bootleg liquor. However, even during this period of increased federal involvement, general policing duties remained within the purview of the states and municipal governments.

However, it was around this time that the federal government made its first foray into the realm of police oversight. Empaneled in 1929, the National Commission on Law Observance and Enforcement (the Wickersham Commission) was mandated to review criminality and policing in the United States. The final fourteen-volume report found a number of issues with the nation's police agencies. Physical and psychological torture to

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<sup>59</sup> The Act was expanded to include Air Force personnel in 1956. The U.S. Navy, and by extension U.S. Marine Corps, are not legally bound by this Act.

<sup>60</sup> *Posse Comitatus* was circumvented in the Pullman case under the argument that the strikes disrupted the U.S. mail permitting military intervention. In the case of the Bonus Army March the legal argument was that as a federal district, use of the Army in the District of Columbia was permissible.

illicit confessions, police command staff appointed due to political connections rather than competence, and widespread corruption were just some of the findings.<sup>61</sup> While there was no federal remedy to these issues, for the first time the federal government had formally chastised the policing profession.

The federal government stayed out of policing until racial integration of southern institutions began in the 1950s. Early incidents in Little Rock, Arkansas and Oxford, Mississippi found U.S. Marshals attempting to enforce desegregation orders of the federal courts overwhelmed by violent protestors. With state officials either unwilling to help if not actively hampering the U.S. Marshals, Active Duty soldiers were again employed to restore order. Use of federal troops to ensure the enforcement of civil rights laws became common practice with their presence sufficient motivation for lawful behavior from the public. From the 1960s through the 1990s, federal intervention in policing continued to remain limited to riot control and restoration of order.

In 1994, the federal government took a huge step into state and local policing. Under the Violent Crime Control and Law Enforcement Act of 1994, the DOJ was given legal authority to investigate state and local police agencies to ensure compliance with the Constitution, federal court rulings, and federal law. In practice, the DOJ (specifically their Civil Rights Division) investigates a police agency after complaints or evidence of institutionalized violations of the citizenry's civil rights. Upon completion of the DOJ's investigation, the executive officials responsible for the police agency are provided a list of problems identified by the DOJ as well as recommended remedies. Leadership is given

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<sup>61</sup> Bopp and Schultz, 107-108.

the opportunity to either enter into a legally binding remediation of their department under federal monitoring or face civil litigation in the federal courts filed by the DOJ. To date, all police agencies subjected to a DOJ investigation have chosen remediation (also known as a consent decree or memorandum of understanding). Per a 2013 report, twenty-two police agencies had entered into a consent decree with the DOJ since 1994.<sup>62</sup> This number can be increased by at least one with the City of Ferguson, Missouri entering into a consent decree with the DOJ in March 2016.

### Conclusion

Historically, the federal government has not involved itself directly with policing matters. The major exception has been suppression of large riots. In these cases, the only tool available to the federal government has been the U.S. Marshals generally supported by federal troops. Federal agencies have assisted state and local police agencies with complex crimes or those that span multiple states, but in regards to day-to-day maintenance of order and community relations, the federal government remains absent. There has been increased scrutiny of police activities over the last twenty years with the DOJ actively investigating and monitoring police agencies for the first time in the nation's history. Whether this is the extent of federal involvement in policing, or a sign of greater involvement to come, remains to be seen.

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<sup>62</sup> Police Executive Research Forum, *Civil Rights Investigations of Local Police: Lessons Learned* (Washington, DC: Police Executive Research Forum, July 2013), accessed March 16, 2016, [http://www.policeforum.org/assets/docs/Critical\\_Issues\\_Series/civil%20rights%20investigations%20of%20local%20police%20-%20lessons%20learned%202013.pdf](http://www.policeforum.org/assets/docs/Critical_Issues_Series/civil%20rights%20investigations%20of%20local%20police%20-%20lessons%20learned%202013.pdf).

## Legal Environment

### Introduction

Few professions are as invested in the nation's legal environment as the police. Legal statutes create the departments, criminal law tells the departments what to investigate, the Constitution gives broad guidance on how to investigate, and case law provides the fine detail the Constitution omitted. This section details the legal environment in which police agencies operate. The first area of review will be the U.S. Constitution to determine if there are any obvious obstacles against the creation of a national police force. Following that is a truncated overview of the criminal justice system in the United States. What challenges would a national police force have to navigate in a country that has one federal criminal code, fifty state criminal codes, and thousands of county and municipal ordinances?

### The U.S. Constitution

The U.S. Constitution is the supreme law of the land. All other laws and policies receive their legitimacy from this founding document. Before any discussion of policing can take place, it is logical to determine what, if anything, the Constitution has to say on the matter.

The U.S. Constitution is largely silent on the place that law enforcement should play in the nation's legal system. There is, in fact, only one direct mention of who is to provide law enforcement services in the U.S. Constitution, which is located in Article I,

Section 8, “The Congress shall have Power. . . . To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions.”<sup>63</sup>

Within the Amendments, there remains no guidance on the place of law enforcement in the nation, nor whom is to execute it. Since ratification of the U.S. Constitution in 1788, none of the twenty-seven ratified amendments (nor those that have failed to ratify) has directly addressed the question of law enforcement in the United States.<sup>64</sup> If there is no direct mention of law enforcement in the U.S. Constitution, what can be inferred?

Returning to Article I, Section 8, there is an apparent *carte blanche* authority provided to the Congress for purpose of administering the nation. Section 8 ends with the empowering right of Congress to, “Make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”<sup>65</sup> While this section does not specifically mention law enforcement, it grants Congress the authority to pass laws as necessary to execute the powers not only given to the Congress, but to the federal government as a whole.

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<sup>63</sup> U.S. Constitution, Article I, Section 8.

<sup>64</sup> LexisNexis, “The Constitution, Failed Amendments,” accessed November 22, 2015, [http://www.lexisnexis.com/constitution/amendments\\_failed.asp](http://www.lexisnexis.com/constitution/amendments_failed.asp).

<sup>65</sup> U.S. Constitution, Article I, Section 8.

## The Criminal Justice System

The criminal justice system in the United States comprises the full cycle of investigating, prosecuting, and rehabilitation of the criminal element. It includes law enforcement officers (to include prosecutors), judicial officers, and corrections officers (to include those that support incarceration, probation, and parole). In the United States, the criminal justice system is divided into the federal system and state systems.

### The Federal Criminal Justice System

The federal criminal justice system is concerned with those crimes that fall under the purview of federal criminal law. The federal criminal code is found in Title 18 of the USC. This title appears similar to most state criminal codes, but a closer look shows a large divergence in the details. For example, Chapter 51 contains those crimes related to homicide. These federal statutes largely relate to homicide against federal personnel or officers in pursuit of their duties, homicide within federal penitentiaries, or homicide against U.S. citizens while abroad. While sections 1111 (murder) and 1112 (manslaughter) provide a mechanism for federal prosecutors to pursue the murder or manslaughter charges against a suspect, prosecution is limited to those murders or manslaughters committed within the special maritime and territorial jurisdiction of the United States. A review of Title 18 USC Chapter 7 defines the special maritime and territorial jurisdiction of the United States in part as:

(1) Upon the high seas outside the jurisdiction of any state; (2) upon a U.S. registered maritime vessel on the Great Lakes, Lawrence River, or tributary related to the International Boundary; (3) within any building or upon any property owned by the federal government within the United States; (4) any rock or island containing guano deemed by the President as pertinent to the U.S.; (5) aboard a U.S. registered aircraft over the high seas outside any state's jurisdiction; (6) any U.S. registered space vehicle; (7) any place outside the



jurisdiction of another nation where a U.S. citizen is a victim or suspect of a crime; (8) any foreign flagged vessel (where permitted by treaty) departing from or arriving at a U.S. port-of-entry where a U.S. citizen is a victim or suspect of a crime; or (9) upon the grounds of a U.S. diplomatic mission abroad or any associated properties.<sup>66</sup>

Due to specificity of the federal government's jurisdiction in cases of murder or manslaughter, it is evident that the federal government has deferred prosecutorial authority to the states except in those instances where state jurisdiction would be absent. A review of other federal statutes shows similar restrictions against federal prosecution unless the crime either: (1) directly impacts federal personnel; (2) directly impacts federal operations; (3) is a crime in which the commission crosses state boundaries; or (4) occurs within the special maritime and territorial jurisdiction.

In addition to the jurisdictional limits, federal criminal law lacks any quality of life or social control statutes frequently seen in state law or local ordinances. This includes items such as truancy statutes, noise statutes, regulation of alcohol sales, etc.<sup>67</sup> Finally, the federal criminal code is devoid of motor vehicle laws, leaving federal law enforcement no authority to conduct traffic enforcement under color of federal law.<sup>68</sup>

It is of further note that state and local law enforcement personnel have no authority to enforce the federal criminal code. This is not an absolute prohibition. It is

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<sup>66</sup> 18 USC § 7.

<sup>67</sup> 18 USC § 59 does deal with alcoholic beverages, but is limited in scope to crimes related to improper transportation of such beverages. Most federal prosecutions related to alcohol production are based on Title 26 violations, which is to say violation of the tax code.

<sup>68</sup> There are limited Department of Transportation statutes regulating commercial motor vehicles engaged in interstate commerce, however, these regulations are largely enforced by specially trained and certified state and local law enforcement personnel.

common for state and local law enforcement personnel assigned to federal task forces to receive commission as a Special Deputy U.S. Marshal. This allows deputized state and local officers to act with the full legal authorities of a federal law enforcement officer (FLEO) in investigating violations of the federal criminal code, executing federal judicial processes, and taking enforcement action to bring offenders before a federal judge.

### The State Criminal Justice System

As a nation comprised of fifty states, there are fifty distinct state criminal justice systems (fifty-six if we include the District of Columbia and the five inhabited U.S. territories). The majority of individuals in the United States who have an encounter with law enforcement deal with a representative of their state's criminal justice system. From noise ordinances to capital murder offenses, the state criminal justice systems are the workhorses of criminal law enforcement in the United States. While constitutional protections and broad concepts of criminal law cross state boundaries, the legal minutia the state criminal justice systems rely on to conduct their daily business does not.

Returning to the previous examples of federal murder and manslaughter statutes, there are as many nuances at the state level. Chapter 19 of the Texas Penal Code outlines four categories of criminal homicide to which a suspect could be held accountable. Contrast this with California's Homicide statutes (Title 8, Chapter 1) which lists five categories. This lack of uniformity exists across all fifty states. Definitions for the same crime (or family of crimes) vary due to the details in the verbiage, sentencing guidelines, and location within the criminal code. The complexity of the state criminal justice systems increases when city and county ordinances are factored into the equation.

The most complicated issue surrounding the state criminal justice systems surrounds jurisdiction and reciprocal agreement. Generally speaking, law enforcement personnel crossing the jurisdictional boundary of their parent agency retain none of their legal authorities as a peace officer. There are some specific exceptions such as in the case of pursuing a fleeing fugitive, but even that varies on a state-by-state basis. This confusion extends to the rights of FLEOs in enforcing state law.

The question of whether FLEOs are authorized to enforce state laws must be considered from both the state and federal perspective. At the state level, this right will vary state-to-state. Article 2 § 2.15 of the New York Criminal Procedure grants twenty-six categories of FLEOs full authority to make warrantless arrests, carry firearms, and use such physical force as necessary to enforce New York State law. By contrast, neighboring New Jersey provides only fifteen categories of FLEOs with these rights and privileges. Complicating matters further are federal regulations. In an opinion issued by the Department of Justice Office of Legal Counsel (OLC) on March 5, 2012, the OLC stated that federal agents might only enforce state law if two distinct conditions are met. First, the enforcement of state law by a FLEO must be permissible by state law. Second, the enforcement of state law by a FLEO, “must comply with the Purpose Act, 31 USC § 1301(a) (2006), which requires that federal funds be used only for the purposes for which they were appropriated . . . although state law may authorize FLEOs to make arrests for state law violations, state law cannot authorize the expenditure of federal resources.”<sup>69</sup>

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<sup>69</sup> Office of Legal Counsel, U.S. Department of Justice, *State and Local Deputation of Federal Law Enforcement Officers During Stafford Act Deployments* (Washington, DC: U.S. Department of Justice, March 5, 2012), accessed March 5, 2016,

While the OLC opinion continues that there are specific instances where FLEOs can enforce state law in good faith (specifically in a federally designated disaster area), it is clear that as a matter of general practice FLEOs should not be enforcing state law regardless of whether a state allows it.

### Census of Law Enforcement in the United States

Having charted the course of policing in the United States as well as the legal environment it operates in, this section will view law enforcement employment quantitatively. The FBI, as part of the Uniform Crime Reports (UCR), publishes census data on state and local police departments annually. The Bureau of Justice Statistics (BJS) published census data of FLEOs every two years as part of their FLEO series. This series was published on a two-year cycle between 1996 and 2008. Utilizing UCR and BJS data together creates a snapshot of what law enforcement in the United States looked like in terms of numbers of police and FLEOs employed over this twelve-year period. Data is presented in two parts: first, the employment trends of police personnel (federal, state, and local) between 1996 and 2008; and second, the number of FLEOs employed and type of law enforcement function (criminal investigator, police, etc.) they performed between 1996 and 2008.

There are two disclaimers for the data that follows. First, the BJS data only captures employee data cleared for public release. BJS noted that employment data related to the Central Intelligence Agency and the Federal Air Marshals is classified and

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[https://www.justice.gov/sites/default/files/olc/opinions/2012/03/31/state-local-fleo-stafford-act-deployments\\_0.pdf](https://www.justice.gov/sites/default/files/olc/opinions/2012/03/31/state-local-fleo-stafford-act-deployments_0.pdf).

not included in their data sets.<sup>70</sup> It is unclear if there are additional agencies with a law enforcement cadre and classified employment data. Second, for an unknown reason the BJS failed to publish a FLEO report in 2006. As such, no data set for 2006 is presented despite available UCR data. The BJS did not publish a 2007 data set to make up for the lack of 2006 data. Therefore, the next FLEO data published after their 2004 report is the 2008 report.

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<sup>70</sup> Brian A. Reaves, “Federal Law Enforcement Officers, 2008,” Bureau of Justice Statistics, June 2012, NCJ 23850, 1, accessed December 5, 2015, <http://www.bjs.gov/content/pub/pdf/fleo08.pdf>.

# Census of Police in the United States, 1996 to 2008

Table 1. Census of Police in the United States, 1996 to 2008					
Year	State/Local Police	Federal Police	U.S. Population (Million)	State/Local Police Pop. Ratio	Federal Police Pop. Ratio
1996	595,200	12,000	249	1 per 419	1 per 20,750
1998	641,200	16,000	260	1 per 425	1 per 16,250
2000	654,600	17,000	265	1 per 405	1 per 15,588
2002	665,500	20,955	271	1 per 407	1 per 12,932
2004	675,700	22,300	278	1 per 411	1 per 12,466
2008	708,600	28,000	286	1 per 404	1 per 10,214

*Source:* Created by author using data from U.S. Department of Justice (DOJ), Federal Bureau of Investigation (FBI), *Crime in the United States, 2002: Unified Crime Reports (UCR)* (Washington, DC: Government Printing Office, October 27, 2003), table VI; DOJ, FBI, *2008 UCR* (Washington, DC: Government Printing Office, September 2009), table VI; DOJ, FBI, *1996 UCR* (Washington, DC: Government Printing Office, September 28, 1997), table VI; DOJ, FBI, *1998 UCR* (Washington, DC: Government Printing Office, October 17, 1999), table VI; DOJ, FBI, *2000 UCR* (Washington, DC: Government Printing Office, October 22, 2001), table VI; DOJ, FBI, *2004 UCR* (Washington, DC: Government Printing Office, October 2005), table VI; Brian A. Reaves and Lynn M. Bauer, NCJ-199995, *Bureau of Justice Statistics Bulletin: Federal Law Enforcement Officers, (BJS FLEO) 2002* (Washington, DC: Bureau of Justice Statistics, August 2003); Brian A. Reaves and Timothy C. Hart, NCJ-177607, *BJS FLEO 1998* (Washington, DC: Bureau of Justice Statistics, March 2000); Brian A. Reaves and Timothy C. Hart, NCJ-187231, *BJS FLEO 2000* (Washington, DC: Bureau of Justice Statistics, July 2001); Brian A. Reaves, NCJ 212750, *BJS FLEO 2004* (Washington, DC: Bureau of Justice Statistics, July 2006); Brian A. Reaves, NCJ 23850, *BJS FLEO 2008* (Washington, DC: Bureau of Justice Statistics, June 2012); Brian A. Reaves, NCJ-164617, *BJS FLEO 1996* (Washington, DC: Bureau of Justice Statistics, January 1998).

Table 2. State, Local, and Federal Police as a Percentage of the Police Population			
Year	Total Police Population	State Local Police as Percentage of Police Pop.	Federal Police as a Percentage of Police Pop.
1996	607,200	98.1	1.9
1998	657,200	97.6	2.4
2000	671,600	97.5	2.5
2002	686,455	96.9	3.1
2004	698,000	96.7	3.3
2008	736,600	96.2	3.8

*Source:* Created by author using data from table 1.

Table 1 is a compilation of employment figures for federal, state, and local police between 1996 and 2008. Table 2 displays the percentage of the overall police population represented by federal, state, and local police. The data reveals two points of interest.

First, the number of federal police officers, as well as their percentage of police nationwide, increased prior to September 11, 2001. The reason for this increase is unknown. The author hypothesizes that this increase represents a shift from the employment of security guards with no arrest authorities to police officers. This is based on the fact that though federal police officers are jurisdictionally limited to federal property, they have greater legal authority in dealing with issues on federal property than a security guard. This hypothesis is further based on the author's personal observations of a heavy federal police presence at most federal installations.

The second point of interest is the growth of state and local police commensurate to the growth of the population. The ratio of police to populace remained steady. While state and local police have taken on additional homeland security responsibilities, it appears that there has been no increase in growth in the police to populace ratio. On the

other side, the ration of federal police has grown considerably. With no BJS census of FLEOs published since 2008, it is unclear if this growth has continued.

During the twelve-year span of data reviewed, the state and local police ratio to population remained consistent. By contrast, the number of police officers employed by a federal agency grew tremendously. As an overall percentage of police officers in the United States, they accounted for less than 4 percent of the total police population as of 2008. However, when viewed as a ratio to the national population the presence of federal police officers has doubled between 1996 and 2008, the last year federal law enforcement census data was available.

#### Census of Federal Law Enforcement Officers, 1996 to 2008

In their federal law enforcement census series, the BJS classified FLEOs as falling within one of six categories: Criminal Investigations (INV), Police Patrol (POL), Corrections (COR), Noncriminal Investigations (NCI), Court Operations (CRT), and Security and Protection (S&P). For all years covered in this section, BJS did not provide employment numbers for the categories of CRT or S&P. These two fields provided the percentage they represented of the overall FLEO figure. The author has extrapolated the approximate number of employees and provided the percentage that BJS listed in parentheses.



Table 3. Federal Law Enforcement Officer Census by Employment Field, 1996 to 2008						
Year	INV	POL	COR	NCI	CRT	S&P
1996	32,000	12,000	16,000	10,000	3,000 (4%)	1,500 (3%)
1998	35,000	16,000	15,000	12,000	2,500 (3%)	2,500 (3%)
2000	36,000	17,000	16,000	12,000	3,900 (4%)	3,100 (3%)
2002	37,209	20,905	16,915	12,800	3,720 (4%)	930 (1%)
2004	40,408	22,278	16,530	17,280	5,250 (5%)	3,254(4%)
2008	45,000	28,000	17,000	18,000	6,000 (5%)	6,000 (5%)

*Source:* U.S. Department of Justice (DOJ), Federal Bureau of Investigation (FBI), “Section VI, Law Enforcement Personnel,” in *Crime in the United States, 2002: Unified Crime Reports (UCR)* (Washington, DC: Government Printing Office, October 27, 2003), 321-440; DOJ, FBI, “Full-Time Law Enforcement Employees,” in *2008 UCRs* (Washington, DC: Government Printing Office, September 2009); DOJ, FBI, “Section VI, Law Enforcement Personnel,” in *1996 UCR* (Washington, DC: Government Printing Office, September 28, 1997), 285-387; DOJ, FBI, “Section VI, Law Enforcement Personnel,” in *1998 UCR* (Washington, DC: Government Printing Office, October 17, 1999), 291-393; DOJ, FBI, “Section VI, Law Enforcement Personnel,” in *2000 UCR* (Washington, DC: Government Printing Office, October 22, 2001), 291-306; DOJ, FBI, “Section VI, Law Enforcement Personnel,” in *2004 UCR* (Washington, DC: Government Printing Office, October 2005), 367-486.

Table 4. Federal Law Enforcement Officer Employment Field Percentages (approximate), 1996 to 2008						
Year	INV	POL	COR	NCI	CRT	S&P
1996	43	16	21	13	4	3
1998	42	19	18	14	3	3
2000	41	19	18	14	4	3
2002	40	22	18	14	4	1
2004	38	21	16	16	5	4
2008	37	23	15	15	5	5

*Source:* Created by author using data from table 3.

Though the data available covers a limited period, it shows that federal interest towards policing has increased. Over the period reviewed, the number of FLEOs

increased by approximately 162 percent. The increase in federal police rose by approximately 233 percent during the same time. The increase in federal police officers as the overall percentage of FLEOs likewise increased, rising from roughly 16 percent of the FLEO population in 1996 to approximately 23 percent in 2008.

## Organizational Theory and the Police

### Introduction

As governmental offices, police agencies fit within preeminent sociologist Max Weber's accepted definition of the ideal-type bureaucracy. Though administratively similar, there are differences that distinguish the police agency from non-police related government offices. The vast majority of police agencies are paramilitary in nature with strict adherence to their hierarchical structures. Members usually wear a distinct uniform denoting agency, rank, and specialization. Officers are required to maintain proficiency in both hard skills (shooting, defensive tactics, etc.) as well as soft skills (legal update training, de-escalation techniques, etc.).

Despite the independence of the nation's police and sheriff agencies, from a functional perspective they operate under similar restrictions as if parts of one organization. Federal court rulings and laws dictate the boundaries that the nation's police agencies must operate within regardless of state affiliation. State statutes mandate the basic requirements and training required of all agencies within their state. Many police agencies seek independent accreditation for their organization. This brings the methodologies practiced by these agencies in line with one another. Finally, police professionals avail themselves of informal professional associations to expand their

professional networks, share ideas and best practices, and train with colleagues from other agencies.

### The Police Agency as a Bureaucracy

Pick any police department, sheriff's office, or state police in the United States and you will find an organization firmly rooted in Max Weber's ideal-type bureaucracy. Each organization will display a hierarchy of authority, a system of rules, career service, technical expertise, written documentation, and fixed official duties.<sup>71</sup>

Police organizations follow clear lines of hierarchy utilizing a military style rank structure (patrol officer, corporal, sergeant, etc.) with direct lines of supervision and accountability. Identification of the hierarchy in a police department is evident both internal and external to the organization through use of uniforms and visual displays of rank. Systems of rules are displayed not only by the police organization's internal operating procedures, but also by the legal constraints placed on the agencies.

Police agencies generally seek a cadre of officers looking to make a career of policing. This is attributable to two major factors. First, training a new police officer requires a large investment in terms of time and finances. Second, like many professions with a body of specialized knowledge, a police professional requires years of experience and exposure to different scenarios before they become proficient at their profession. To encourage policing as a career, it is not uncommon for state governments to offer

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<sup>71</sup> Jonathan R. Tompkins, *Organization Theory and Public Management* (Boston, MA: Wadsworth, Cengage Learning, 2005), 49.

supplemental retirement programs for sworn police personnel.<sup>72</sup> Technical expertise in the police profession is displayed as early as the hiring process. Hiring actively screens out those ineligible to serve as police officers (convicted felons, illegal immigrants, etc.) while identifying candidates with the highest probability of completing training and successfully performing in the field. Once basic training has been completed, increased technical expertise through experience, education, and advanced professional certifications are needed to advance within a police organization.

Police agencies are required to maintain a cornucopia of written documentation for use both inside and outside the organization. Internally, standard operating procedures, legal procedures, and enabling certifications are required by personnel to effectively complete their mission. Externally, reports of investigations (crime scene reconstructions, interviews, forensic examinations, etc.) are needed to prosecute criminal behavior. Records to maintain officer, equipment, and departmental certifications are also kept for production upon demand by certifying authorities or for court purposes.

### Police Agencies as Network Organizations

The individual police agency fits nicely into Weber's definition of the ideal bureaucracy. When looking at policing across the United States as a collective, it is not as easy to define. As census data shows, over 12,600 different state and local police

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<sup>72</sup> The Kansas Police and Fire Retirement program is one example of a mandatory retirement program administered by the state government, while the Georgia Peace Officers' Annuity and Benefit is an example of a voluntary retirement program administered by the state government.

agencies conducted policing duties in the United States as of 2014.<sup>73</sup> These organizations are all oriented towards the same goal: maintaining law and order within the communities they serve. Unfortunately, criminal enterprises have displayed little consideration towards confining their criminal activities to the jurisdictional boundaries of one police agency. This necessitates a great deal of investigative cooperation among the nation's various police agencies. Cooperation is not limited to neighboring jurisdictions, but often occurs cross-country as criminals frequently transit the nation to avoid detection. It can therefore be proposed that the combined individual efforts of the nation's police agencies have a cumulative effect on the suppression of criminal behavior. Because of frequent interagency collaboration, the non-competitive shared goal of maintaining law and order held by police agencies, and their similar organizational structures, it can be argued that the disparate police agencies in the United States function together as an informal network organization.

Organizational theorists Mary Jo Hatch and Ann L. Cunliffe state, "network organizations are formed by nonhierarchical relationships comprised of human points of contact called nodes . . . Partners are linked by supplier-customer relationships that resemble a free market system. That is, goods are bought and sold between network partners."<sup>74</sup> Using this model, individual police agencies are the nodes. The agencies are

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<sup>73</sup> U.S. Department of Justice, Federal Bureau of Investigation, "Crime in the United States, 2014 – Table 74, Full-Time Law Enforcement Employees" (Washington, DC: Government Printing Office, Fall 2015), accessed March 6, 2016, <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-74>.

<sup>74</sup> Mary Jo Hatch and Ann L. Cunliffe, *Organization Theory*, 2nd ed. (New York: Oxford University Press, 2006), 306–307.

linked by a supplier-customer relationship in that they are oriented towards producing a specific service to the communities they serve. While there is not a literal selling of goods between the network partners, there is a mutually beneficial flow of information and collaboration to accomplish their goals. This in turn helps accomplish the network's overarching goal of maintaining law and order.

There are two additional points that justify classifying the policing profession as a network organization. First, all police departments in the United States are obligated to follow the rulings of the U.S. Supreme Court. *Miranda v. Arizona*, *Terry v. Ohio*, and *Tennessee v. Garner* are three of many U.S. Supreme Court cases that had a profound impact on the way police agencies across the nation were required to reconsider the way they policed their communities. Second, each state has established their own POST Council (or similar organization) to set and monitor the standards for police certification in their state. While each police agency is an independent organization, the systems in place that govern and dictate their behavior constrain the ability of one agency to radically distinguish their operations from a like-sized and similarly funded agency.

### Independent Police Institutions

When looked at individually, police agencies nationwide share the same basic bureaucratic organization. Considered as a group, police agencies accomplish their work within the framework of a network organization. However, there are additional factors that tie the nation's police agencies together. These factors are the informal associations and formal accreditations that are available to police personnel and agencies.

Informal associations are venues through which police personnel establish professional ties. The IACP is perhaps the most well known and oldest of these

organizations. Established in 1893, the IACP serves as a forum for the sharing of ideas, best practices, and a voice for police interests. The IACP is far from the only informal association. The National Sheriffs' Association, National Tactical Officers Association, and Narcotics Enforcement Officer Association are a few of the other informal national associations that focus police professionals towards a common operational picture. Away from the national stage, there are similar associations that focus on the issues within their state. The California Association of Tactical Officers, Georgia Gang Investigators Association, and the Wisconsin Narcotics Officers Association are but three such examples.

Finally, there are formal accreditation programs that police agencies voluntarily work to join. The Commission on Accrediting Law Enforcement Agencies (CALEA) is the largest such association. CALEA is a non-profit organization that accredits police agencies found to meet their minimum standards for agency professionalism. These standards include management practices, administration practices, and policies that promote operational transparency to the public. CALEA accreditation mandates annual compliance reporting by the accredited agency as well as reaccreditation every three years.<sup>75</sup> Accreditation by CALEA brings not only prestige, but keeps the agency abreast and in line with the most recent best practices in the profession.

In addition to national accreditations, most states have a voluntary accreditation organization as well. These programs are designed to nest within the mandates of national

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<sup>75</sup> The Commission on Accrediting Law Enforcement Agencies, "Steps in the Accreditation Process," accessed March 15, 2016, <http://www.calea.org/content/steps-accreditation-process>.

accreditation programs while also applying standards specific for that state. The Virginia Law Enforcement Professional Standards Commission and the Texas Police Chief Recognition Program are examples of two state accreditation programs available to police agencies within those states.

Independent institutions further homogenize police agencies in the United States. Associations allow personnel to network, train, and share best practices with police personnel across the United States. Accreditation organizations further standardize police practices beyond what is required by federal or state statutes.

### Conclusion

Despite each police agency being an independent organization, as a governmental entity they all follow the same basic bureaucratic model. As part of the bureaucratic processes, there are established national standards (such as Supreme Court rulings) as well as state standards (P.O.S.T. or similar standards and state enabling statutes) that govern the methodologies police agencies employ. These standards are critical to creating the uniformity of procedure necessary to legitimize the criminal justice process. Informal associations and formal accreditations further normalize practices and standards throughout the profession. Finally, police agencies pursue the same desired end-state of maintaining law and order for the communities they serve. The individual police agencies in the United States are bound together by three major factors: a similarity of internal bureaucracy (Weber's ideal bureaucracy), similar legal constraints (federal and state), and strong informal ties. From a functional viewpoint, these factors suggest that the nation's police agencies operate within the organizational framework of an informal network organization.



### Case Study: The Royal Canadian Mounted Police

The merger of the Northwestern Mounted Police and the Canadian Dominion Police circa 1920 created Canada's national police force, the RCMP. Although the national police force, their authority is not absolute. The RCMP has jurisdiction across Canada to enforce federal statutes. However, the RCMP does not have *carte blanche* authority to enforce provincial or municipal law. As of January 2015, the RCMP had local jurisdiction in all three of the Canadian territories, but only eight of the ten provinces. While eight of the ten provinces entered into a memorandum of understanding (MOU) delegating enforcement of provincial law to the RCMP, Ontario and Quebec did not. These two provinces chose to maintain provincial police forces. In addition to the provinces and territories, the RCMP claims local jurisdiction in 150 municipalities (all outside the provinces of Ontario and Quebec), over 600 aboriginal communities, and three international airports.<sup>76</sup>

The RCMP provides the full-spectrum of law enforcement services. They enforce national law unfettered across Canada. Provincial and municipal law is enforced in accordance with the provisions of established provincial MOUs as previously mentioned. Though a national agency, the RCMP provides those miscellaneous community services that are integral to a police agency. Finally, they provide services similar to those of the various U.S. federal investigative agencies. The RCMP manages Canada's criminal fingerprint index, provides forensic services to local police agencies, and runs the

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<sup>76</sup> Royal Canadian Mounted Police, "About the RCMP," last modified January 28, 2015, accessed January 23, 2016, <http://www.rcmp-grc.gc.ca/about-ausujet/index-eng.htm>.

Canadian Police College. They also manage (among other things) Canada's missing child database, national gun registry, and the Criminal Intelligence Service Canada. Finally, the RCMP is tasked with dignitary protection of both Canadian officials and visiting dignitaries.<sup>77</sup> RCMP constables have served in Haiti and Afghanistan in the role of police advisors and trainers.<sup>78</sup> Employment statistics available for the RCMP listed approximately 27,000 sworn personnel in 2007 at a time the Canadian population stood at approximately thirty-three million persons.<sup>79</sup> This equates to approximately one RCMP constable per 1,222 persons throughout Canada. Unlike the United States, there does not appear to be a census of Canadian police personnel. As a result, the number of RCMP constables as a percentage of Canada's overall police organization is unknown.

The RCMP has not been without controversy. A 2007 report recommended establishment of an oversight board independent of the RCMP due to concerns of poor RCMP accountability.<sup>80</sup> The establishment of the Civilian Review and Complaints Commission (CRCC) for the RCMP in 2013 fulfilled this recommendation, though the

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<sup>77</sup> Royal Canadian Mounted Police, "Providing Service for Canada's Law Enforcement Community," last modified February 29, 2012, accessed February 7, 2016, <http://www.rcmp-grc.gc.ca/pubs/nps-snp/providingservices-prestationsservices-eng.htm>.

<sup>78</sup> Linda Black, Richard Drouin, Larry Murray, Norman D. Inkster, and David A. Brown, *Restoring the Trust; Task Force on Change and Governance in the RCMP* (Ottawa, ON: Her Majesty the Queen in Right of Canada, December 2007), viii.

<sup>79</sup> Black et al., viii; Statistics Canada, "CYB Overview 2008, Population and Demography," last modified January 20, 2009, accessed February 7, 2016, [http://www41.statcan.gc.ca/2008/3867/ceb3867\\_000-eng.htm](http://www41.statcan.gc.ca/2008/3867/ceb3867_000-eng.htm).

<sup>80</sup> Black et al., 11.

provisions did not go into effect until 2014.<sup>81</sup> Early results suggest the CRCC is a success, with the RCMP reporting a 158 percent increase of misconduct investigations over the first year of the commission. In addition, the number of constables facing dismissal for egregious misconduct increased by 331 percent, though dismissal cases only accounted for 7.5 percent of all misconduct cases.<sup>82</sup>

The 2007 report found additional problems within the RCMP. Of note were issues related to the over tasking of the RCMP without provision of adequate resources and a need to prioritize existing obligations. In addition, the report found that RCMP constables spent too much of their time handling administrative matters and not enough time policing.<sup>83</sup>

The RCMP is a full-service law enforcement organization. It provides the full spectrum of police services while also housing Canada's national investigative apparatuses. It is a one-stop shop for Canada's policing and law enforcement needs. However, as the task force report on the RCMP found in 2007, it is not without problems. Like U.S. federal agencies, the RCMP finds itself buried in bureaucracy that degrades their ability to provide law enforcement services. Prior to 2013, accountability of RCMP constabulary conduct was lacking. The establishment of the CRCC in 2014 and

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<sup>81</sup> Justice Laws Website, Enhancing Royal Canadian Mounted Police Accountability Act, *Statutes of Canada*, 2013, Government of Canada, accessed February 7, 2016, [http://laws-lois.justice.gc.ca/eng/annualstatutes/2013\\_18/FullText.html](http://laws-lois.justice.gc.ca/eng/annualstatutes/2013_18/FullText.html), ch. 18.

<sup>82</sup> Royal Canadian Mounted Police, "Results and Respect in the RCMP Workplace," last modified April 14, 2016, accessed April 29, 2016, <http://www.rcmp.gc.ca/en/results-and-respect-the-rcmp-workplace?fe>.

<sup>83</sup> Black et al., 55-56.

preliminary success suggests that a national police force, through independent oversight, can still be held accountable when allegations of misconduct surface.

## CHAPTER 3

### RESEARCH METHODOLOGY

This research project utilizes a qualitative methodology to address the primary and secondary research questions. Primary sources in the form of government documents are used to the extent possible. Secondary sources are comprised primarily of historical texts, academic journals, and opinion pieces. Where opinion pieces are utilized, the author attempted to include an alternative viewpoint to avoid the appearance of bias.

For the first secondary research question of whether a full-time national police force would be legal, analysis centers around content analysis of the Constitution. The next secondary research question centers on the feasibility of a national police force. Data from the criminal justice systems section of chapter 2 forms the core for the analysis of this question.

The third secondary research question deals with the federal government's contribution to policing. The historical role of the federal government in policing plays prominently in addressing this question, as well as some quantitative data surrounding the proliferation of federal law enforcement personnel in recent years. The fourth secondary research question asks if there is a capabilities gap that a national police force could fill. Analysis relies heavily on historical data to demonstrate the strengths and weaknesses of policing in the United States.

The fifth and final secondary research question asks whether the organizational structure of the nation's police forces could accommodate a national police force. Analysis is conducted in the framework of models taken from current organizational theory publications. Specifically, Hatch and Cunliffe's writings on network organizations

are referenced as well as Howard E. Aldrich's and Martin Ruef's work on organizational goal direction.

## CHAPTER 4

### ANALYSIS

#### Introduction

This chapter is divided into seven sections. Five of these subsections address each of the secondary research questions posed in chapter 1. The remaining two include this introduction and the conclusion. The secondary research questions are addressed utilizing the methodology established in the previous chapter.

To facilitate presentation of the findings, a modified decision support matrix in table format is included for each secondary research question. These tables are not weighted, but are intended to serve only as a visual reference for each secondary research question showing whether there is a positive or negative relationship between the findings for that question and how it would relate to a national police force. Each question addressed is scored with either a +1 or a -1 to represent a positive or negative finding. The individual tables are compiled and tabulated into one large table in the next chapter for ease of reference.

#### Analysis: Does it Appear Legal?

The question of whether it is legal to establish a full-time national police force is largely conjecture. It is only conjecture as in the American legal system, only a judge can render legal opinion, also known as a court opinion. Licensed attorneys can also provide legal opinions on questions of law. These are known as counsel's opinion. Because the legality of a national police force has never been addressed by the courts, there is no precedence to provide a definitive answer. As a legal layman, the author can only

speculate on legal matters through review of the Constitution, legal codes, and published legal opinions. To make a definitive statement on the legality of a national police force would be both improper and academically dishonest. This question is viewed first from the perspective of whether it appears legally permissible and whether the states can defer local law enforcement authority to the federal government.

### Does it Appear Legally Permissible?

The question of whether a national police force appears legally permissible specifically addresses the question of whether the federal government has the authority to create such an institution. Looking first at the Constitution, there is nothing that directly addresses the role of law enforcement in the nation or who is supposed to provide it. As the literature review showed, the entire law enforcement field was undeveloped at the time of the Constitution's drafting, so the omission is understandable. Within the Constitution, the only suggestion of law enforcement outside the Amendments is in Clause 2, Section 2 of Article IV that reads, "A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime."<sup>84</sup>

The Constitution was perfectly described in a 2006 report from the White House that said:

The Founders created a constitutional framework in which each State, upon ratification of the Constitution, ceded some of its powers to the Federal government to create one united yet limited central government. The Constitution sets forth the specific and delegated powers that delineate Federal and State roles.

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<sup>84</sup> U.S. Constitution, Article IV, Section 2, Clause 2.



It tells us which branches and offices will be part of the Federal government, what powers they may exercise, and what limitations constrain them. The Constitution also respects State powers by reserving those powers not given to the Federal government to the States or to the people.<sup>85</sup>

In establishing the framework of the federal government, the Constitution provides the mechanism that would enable the creation of a national police force. Article II, Section 2 of the Constitution clearly provides the president with the authority to:

Nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.<sup>86</sup>

In 1819, the U.S. Supreme Court affirmed the right of the federal government in establishing agencies not specifically enumerated in the Constitution. Though originating from a case related to the U.S. Bank, the Supreme Court's opinion in *McCulloch v. Maryland* is relevant as the syllabus reads:

The Government of the Union, though limited in its powers, is supreme with its sphere of action, and its laws, when made in pursuance of the Constitution, form the supreme law of the land. There is nothing in the Constitution of the United States similar to the Articles of Confederation, which exclude incidental or implied powers. If the end be legitimate, and within the scope of the Constitution, all the means which are appropriate, which are plainly adapted to that end, and which are not prohibited, may constitutionally be employed to carry it into effect. The power of establishing a corporation is not a distinct sovereign power or end of Government, but only the means of carrying into effect other powers which are sovereign. Whenever it becomes an appropriate

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<sup>85</sup> Assistant to the President for Homeland Security and Counterterrorism, *The Federal Response to Hurricane Katrina, Lessons Learned* (Washington, DC: The White House, February 2006), accessed May 14, 2016, <http://www.disastersrus.org/katrina/White%20House%20Katrina%20report.pdf>, 3.

<sup>86</sup> U.S. Constitution, Article II, Section 2, Clause 2.

means of exercising any of the powers given by the Constitution to the Government of the Union, it may be exercised by the Government.<sup>87</sup>

Just as the Congress created the U.S. Marshals, the FBI, and the DEA through the legislative process as the means to enforce the laws they are constitutionally permitted to pass, it seems a reasonable assumption that a national police force could be created as an instrument to enforce federal law. The creation of a national police force would, in fact, require legislative approval as Title 5, Section 905 of the USC specifically bars the executive from:

Creating a new executive department or renaming an existing executive department, abolishing or transferring an executive department or independent regulatory agency, or all the functions thereof, or consolidating two or more executive departments or two or more independent regulatory agencies, or all the functions thereof.<sup>88</sup>

So long as the established procedures for creation of a federal agency were followed, there does not appear to be a conflict with the Constitution in creation of a national police force.

#### Can the States Defer Law Enforcement Authority to the Federal Government?

The legal hurdle faced by a national police force does not appear to be whether the federal government has the legal right to create new agencies. The challenge appears to be that the federal government can only grant authority to enforce federal statutes. The Constitution does not allow the federal government to unilaterally interject itself into

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<sup>87</sup> Legal Information Institute, *McCulloch v. Maryland* (U.S. Supreme Court 1812), Cornell University Law School, accessed May 28, 2016, <https://www.law.cornell.edu/supremecourt/text/17/316>.

<sup>88</sup> 5 USC § 905(a)(1).

issues that are intrastate in nature, such as local law enforcement. While the federal government cannot take law enforcement authority from the states, can the states give the federal government this authority? The answer is a qualified yes. State governments have shown a willingness to share state law enforcement authorities with the federal government in specific circumstances. Definitively answering whether states would be willing to provide a *carte blanche* authority to the federal government over local law enforcement matters is unknown. For that matter, the question of whether the states have the authority to defer a constitutional right to the federal government is also unknown as the literature review located no such examples. Barring actual debate in the state legislatures, these two points will remain unanswered questions.

Though it varies state-by-state, there is precedence in states granting federal law enforcement the authority to enforce state law and the federal government allowing FLEOs to exercise that authority under specific circumstances. As previously discussed in the literature review, New York and New Jersey grant limited classes of FLEOs the right to enforce state law without restriction. Florida provides a blanket authority to FLEOs to act under state law to prevent violent crime per § 1505(2), Chapter 901, of Title XLVII:

Every federal law enforcement officer has the following authority: (a) To make a warrantless arrest of any person who has committed a felony or misdemeanor as defined by state statute, which felony or misdemeanor involves violence, in the presence of the officer while the officer is engaged in the exercise of her or his federal law enforcement duties. If the officer reasonably believes that such a felony or misdemeanor as defined by state statute has been committed in her or his presence, the officer may make a warrantless arrest of any person whom she or he reasonably believes to have committed such felony or misdemeanor.<sup>89</sup>

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<sup>89</sup> Florida Code, Title XLVII, Chapter 901 § 1505(2).

Georgia makes it a little more difficult than Florida for FLEOs to enforce state laws, but does allow it. The Official Code of Georgia, § 35-9-15(a) states:

On request of the sheriff or the chief or director of a law enforcement agency of this state or any political subdivision thereof, and with the consent of the employee concerned, a law enforcement agency of the United States or any of the several states may be appointed as a law enforcement officer of this state for the purpose of providing mutual assistance in the enforcement of the laws of this state or of the United States.<sup>90</sup>

While there is no blanket right for FLEOs to enforce state law, sheriffs and police chiefs have the right to deputize FLEOs under state law as needed. Like the New York and New Jersey statutes, such deputation has no limits on the category of crime FLEOs can enforce. Florida however, imposes a limitation to crimes of violence. These four examples provide a snap shot of state legislation already on the books nationwide granting FLEOs state authorities on par with state and municipal police personnel.

Despite the intent of the state legislatures, there is the fundamental issue of states having no authority over how federal assets (FLEOs) are utilized. Per the 2012 opinion by the DOJ's OLC, even if a state grants FLEOs authority to enforce state law, they cannot act on that authority without violating federal appropriations regulations in 31 USC 1301(a).<sup>91</sup> This section requires, "appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law."<sup>92</sup> When

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<sup>90</sup> Georgia Code, § 35-9-15(a).

<sup>91</sup> The opinion establishes a two-pronged test for FLEOs to act under state authorities. First, the authorization to act under state law must be expressly made in either federal or state law. Second, action under state authority must have a "logical relationship to the objective" of the federal mission.

<sup>92</sup> 31 USC 1301(a).

looking at the enabling statutes of federal law enforcement agencies, they are generally very clear that their purpose, and thereby appropriations, are intended for support of federal operations. For example, the enabling statute for the Federal Protective Service states:

While engaged in the performance of official duties, an officer or agent designated under this subsection may—(a) enforce Federal laws and regulations for the protection of persons and property . . . make arrests without a warrant for any offense against the United States . . . serve warrants and subpoenas issued under the authority of the United States; (e) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property.<sup>93</sup>

The opinion does provide limited exceptions when such enforcement action would be acceptable and specifically cites FLEOs serving in areas designated as federal disaster areas as one such permissible situation. The opinion justifies this dual hatting on the grounds that, “arrests made by FLEOs pursuant to express state law authorization and in the context of a Stafford Act deployment satisfy the Purpose Act when the arrests bear a ‘logical relationship to the objectives’ of the Stafford Act.”<sup>94</sup>

Just as the federal government cannot unilaterally claim state law enforcement authorities, state governments cannot expect FLEOs to enforce local law despite state statutes authorizing such authorities. This suggests that some intermediary legal mechanism would be necessary for federal agents to enforce state law outside of a disaster situation. In the case of the RCMP, this mechanism takes the form of the MOU between the national and provincial governments.

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<sup>93</sup> 40 USC §1315.

<sup>94</sup> Office of Legal Counsel, U.S. Department of Justice, 2.

The question therefore is can the states and federal government enter into a binding agreement where a state shares or cedes local law enforcement authority to the federal government with the understanding that the federal government will exercise that authority? In the discussions surrounding the boundaries between federal and state authorities, the argument centers on one party intruding into the domain of the other. The author was unable to find any example where the states have voluntarily invited federal intervention into a local concern, such as local law enforcement, outside of a disaster like situation. With no legal precedence to draw from, nor any debate to act as a guide, the author has neither the sources nor legal background to hypothesize whether such an arrangement would be constitutionally permissible.

### Conclusion

The Constitution serves three major purposes. First, it established the rights of the people. Second, the Constitution established the responsibilities and authorities of the federal and state governments. Finally, it established the framework under which the federal government is organized. A national police force does not appear to violate established constitutional limits on federal power because it does not create any new authorities for the federal government; it merely provides the government with another tool to enforce existing federal law. As long as a national police force is established by established legislative and executive action, there does not appear to be a constitutional conflict or prohibition.

The legal authorities of a national police force are more complicated. A national police force would have authorization to enforce federal law to the extent the enabling legislation permitted it. However, the federal government cannot unilaterally authorize a

national police force to enforce state laws nor compel the states to give such an organization access to the state criminal justice systems. Nevertheless, some states have already given FLEOs a degree of state authority of their own accord. The only barrier to FLEOs exercising that authority has been federal appropriation regulations and internal agency policies. Whether states can enter into a formal MOU with the federal government to provide basic policing services as the Canadian provincial governments have done with the RCMP is unknown. As such, it is improper to speculate either for or against the rights of the states to defer their local law enforcement authorities to the federal government as, at this time, there is no evidence to support either position.

Looked at purely as an exercise in federal authority, the founding of a national police force does not appear to conflict with the Constitution, but whether such an organization could provide general police services is unknown. Without state law enforcement authorities, a national police force would serve no obvious purpose due to the restrictive nature of the federal criminal code. The wisdom or usefulness of a national police force that is restricted to the federal realm is not the point for this secondary research question. While the challenge is recognized, it has no overall bearing on the question of whether a full-time national police force would be legal. The feasibility, and indeed wisdom, of a full-time national police force is analyzed in the follow on secondary research questions.

Table 5. Does it Appear Legal?	
Does it appear legally permissible?	+ 1
Can the states defer law enforcement authority to the federal government?	0
TOTAL	+1

*Source:* Created by author.

### Analysis: Is it Feasible?

The feasibility of a national police force must be considered from two angles. First, how would the organization be effective within the federal criminal justice system? Second, could a national police force operate in the state criminal justice systems?

#### Would it be Effective in the Federal Criminal Justice System?

As a federal agency, a national police force would have unfettered access to the federal courts. However, a national police force would find the federal criminal code restrictive. As documented in the federal criminal justice section of chapter 2, the federal criminal code was not designed for routine law and order functionality. There are no federal statutes surrounding family law, traffic law, nor are the federal courts designed to process juvenile offenders.<sup>95</sup> There are in fact prohibitions that discourage and limit federal involvement with juvenile defendants except in those cases where no state remedy

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<sup>95</sup> Federal law provides limited authority over commercial vehicles that fall under Department of Transportation regulation due to their involvement in interstate commerce.



exists.<sup>96</sup> Any attempts to provide the federal courts with jurisdiction on par with the state court systems would require a complete overhaul of the federal criminal code and expansion of the federal criminal justice apparatus. It is doubtful such an overhaul would be constitutional, as the Constitution does not provide for a federal remedy to intrastate matters. As recently as 2011, in *Bond v. United States*, the Supreme Court delivered a unanimous opinion against federal overreach into state criminal matters writing:

Bond asserts that the public policy of the [sic] Pennsylvania, enacted in its capacity as sovereign, has been displaced by that of the National Government. The law to which she is subject, the [federal] prosecution she seeks to counter, and the punishment she must face might not have come about had the matter been left for Pennsylvania to decide. . . . The principles of limited national powers and state sovereignty are intertwined. Impermissible interference with state sovereignty is not within the National Government's enumerated powers, and action exceeding the National Government's enumerated powers undermines the State's sovereign interests.<sup>97</sup>

While a national police force would find itself at home operating under federal authorities, it would be an unnecessary cog in the federal criminal justice system. The federal criminal code is already spoken for in terms of which agencies are responsible for specific classifications of criminality. As such, a national police force would find itself in constant jurisdictional conflict with no clear purpose.

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<sup>96</sup> John Scalia, NCJ-163066, *Juvenile Delinquents in the Federal Criminal Justice System* (Washington, DC: Bureau of Justice Statistics, February 1997), accessed March 19, 2016, <http://www.bjs.gov/content/pub/pdf/Jdfcjs.pdf>.

<sup>97</sup> Legal Information Institute, *Bond v. United States*, 581 F. 3d 128 (U.S. Supreme Court, 2011), Cornell University Law School, accessed May 30, 2016, <https://www.law.cornell.edu/supct/html/09-1227.ZS.html>.

### Would the States Agree to Such an Organization?

If a national police force has limited opportunities in the federal system, the more practical course would be to pursue a model similar to that in place with the RCMP where they have MOUs with the Canadian provinces allowing them to enforce provincial law. The previous secondary research question suggested that the constitutionality of such an arrangement is questionable with no evidence to speak either for or against it. For the U.S. federal government, the key to successfully fielding a national police force would be demonstrating first a need and then buy-in for the program from the state governments. Even if it was determined to be constitutional and within states' rights to defer their local law enforcement authorities to the federal government, it is doubtful they would be willing to relinquish that authority.

Recent history suggests that the federal government would find the states unwilling to relinquish their authority over matters they deem of local concern. In 2011, twenty-eight states brought suit against the federal government's passage of the Patient Protection and Affordable Care Act on the grounds it was a federal overreach.<sup>98</sup> Even with the Supreme Court upholding the Act in their 2012 *National Federation of Independent Business v. Sebelius* ruling, challenges by states continues with Florida filing

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<sup>98</sup> Deroy Murdock, "28 States Suing Over Obamacare," Newsmax, February 18, 2011, accessed May 29, 2016, <http://www.newsmax.com/Murdock/healthcare-obamacare//2011/02/18/id/386576/>.

a new suit in 2015.<sup>99</sup> As of May 26, 2016, eleven states are also suing the federal government over attempts to regulate public restroom usage in state schools.<sup>100</sup>

It is worth noting though, that the federal government has shown both an ability and willingness to shape state behavior through the power of the purse. In 1984, the National Minimum Drinking Age (23 USC § 158) established twenty-one as the federally recognized age for the purchase and possession of alcoholic beverages. While the federal government could not mandate that states adopt twenty-one as the legal drinking age in state law, the law directly tied eligibility to receive federal highway funds to states adopting twenty-one as the minimum age for alcohol purchases. More recently, the eligibility of state and municipal governments to receive DHS grants is directly tied to their adoption of the National Incident Management System in their emergency management procedures.<sup>101</sup> These two examples were adopted nationwide with minimal

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<sup>99</sup> Toluse Olorunnipa, “Florida’s Scott Meets Burwell After Suing Her Over Obamacare,” *Bloomberg*, May 5, 2015, accessed May 29, 2016, <http://www.bloomberg.com/news/articles/2015-05-06/florida-s-scott-meets-burwell-after-suing-her-over-obamacare>.

<sup>100</sup> Olivia Hampton, “U.S. States Sue Federal Government Over Transgender Bathroom Use,” *Yahoo News*, May 26, 2016, accessed May 29, 2016, <https://www.yahoo.com/news/eleven-states-sue-us-government-over-transgender-bathroom-185853680.html?ref=gs>.

<sup>101</sup> Federal Emergency Management Agency, “Implementation Guidance and Reporting,” last updated October 2, 2015, accessed March 25, 2016, <https://www.fema.gov/implementation-guidance-and-reporting>; U.S. Department of Homeland Security, *National Incident Management System: Training Program* (Washington, DC: U.S. Department of Homeland Security, September 2011), accessed March 25, 2016, [http://www.fema.gov/pdf/emergency/nims/nims\\_training\\_program.pdf](http://www.fema.gov/pdf/emergency/nims/nims_training_program.pdf). In the NIMS training program, DHS defines NIMS as, “a consistent template enabling Federal, State, tribal, and local governments, the private sector, and nongovernmental organizations to work together to prepare for, prevent, respond to, recover from, and mitigate the effects of incidents regardless of cause, size, location, or complexity.”

dissent. The DOJ's recent guidance that state schools accepting federal funds must defer to a student's gender identity rather than their biological gender or risk loss of funds and potential civil suit has met with resistance.<sup>102</sup> Due to the freshness of this particular issue, it is too soon to say whether the views of the states or the federal government will prevail in the courts.

### Conclusion

Whether it would be feasible to establish a full-time national police force is dependent on the demand for such an organization and the willingness of the populace and government to support the process. The federal criminal code is neither designed nor equipped to support a national police force engaged in general police activities. At the state level, there is the issue of first garnering support from the states to implement such an organization, as well as the unresolved question of whether the states can defer their law enforcement responsibilities to the federal government. A national police force without state law enforcement authority and access to the state courts would be constrained to the point of uselessness.

In the most literal sense, it is possible to create a national police force. However, the organization that would be produced would bring nothing new to the federal criminal justice system. At the state level, there is the real and unresolved question of whether a national police force could enforce state law even with state authority to do so. This does not even account for the challenges of gaining state support for such an organization. In

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<sup>102</sup> Department of Justice and Department of Education, "Guidance to Schools Regarding Transgender Students and Title IX Compliance," May 13, 2016, accessed May 30, 2016, <https://www.justice.gov/opa/file/850986/download>.

addition, there is no public demand for such an organization. Based on the resistance to Common Core legislation and the Patient Protection and Affordable Care Act, it is not unreasonable to speculate that any attempts to create a national police force in the current political climate would be met with hostility from the states and the people. At this particular moment in the nation's history, the effort and challenges required to create a full-time national police force renders it impractical and infeasible.

Table 6. Is it Feasible?	
Would it be effective in the federal criminal justice system?	-1
Would the states agree to such an organization?	-1
TOTAL	-2

*Source:* Created by author.

#### Analysis: What is the Federal Experience in Policing?

The analysis of the federal government's experience in policing is considered from two perspectives. The first is whether the federal government has any experience providing police services. The second is what the federal government has contributed to the policing profession.

#### Has the Federal Government Provided Police Services?

As previously documented, the federal criminal code is not as robust as the criminal codes of the states. Until the twentieth century, federal law enforcement was largely limited to the U.S. Marshals who provided a jack-of-all-trades service to the

nation.<sup>103</sup> It was not until the early twentieth century that the federal government took an increased role in law enforcement through the establishment of such agencies such as the DOJ's Bureau of Investigation in 1909 and the Treasury Department's Prohibition Unit in 1920.<sup>104</sup>

As the literature review showed, the twentieth century saw an increase in federal interest in law enforcement, but no interest in the emerging police profession. The nascent Bureau of Investigations (later to become the FBI) was tasked with identifying and tracking spies and enemy sympathizers during World War One. Federal law enforcement expanded to enforce the Volstead Act during prohibition. World War Two saw increased federal investigative tasking to monitor and arrest Axis power agents with the focus shifting to communists after the war.<sup>105</sup> The Bureau of Alcohol, Tobacco, and Firearms, as well as the Drug Enforcement Agency (DEA) were created in the 1970s further solidifying the framework of federal law enforcement.<sup>106</sup> With the exception of reorganizations and expansions, the largest being the establishment of Homeland Security, federal law enforcement has largely remained unchanged since the 1970s.

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<sup>103</sup> The U.S. Marshals were established as part of the Judiciary Act of 1789.

<sup>104</sup> Federal Bureau of Investigation, "A Brief History of the FBI," accessed June 2, 2016, <https://www.fbi.gov/about-us/history/brief-history/brief-history>; Bureau of Alcohol, Tobacco, Firearms, and Explosives, "18th Amendment 1919 (National Prohibition Act)," last modified August 10, 2015, accessed June 2, 2016, <https://www.atf.gov/our-history/timeline/18th-amendment-1919-national-prohibition-act>.

<sup>105</sup> Federal Bureau of Investigation, "A Brief History of the FBI."

<sup>106</sup> Bureau of Alcohol, Tobacco, Firearms, and Explosives, "Treasury Department Order 221," last modified July 31, 2015, accessed June 2, 2016, <https://www.atf.gov/our-history/timeline/treasury-department-order-221>; Drug Enforcement Administration, "DEA History," accessed June 2, 2016, <https://www.dea.gov/about/history.shtml>.

In recent decades, there has been a steep increase in the employment of federal police officers. As table 1 in chapter 2 shows, the number of federal police increased roughly 233 percent between 1996 and 2008.<sup>107</sup> As previously documented, the enabling statutes for these organizations severely limit their authorities and jurisdictions. As such, these agencies are functionally closer to armed security guards than state or local police personnel are.

Whether it is the FBI, DEA, or any other federal law enforcement agency, the common factor throughout the twentieth century and into today is that the federal government relies on specialized law enforcement personnel with specialized training to enforce the federal criminal code. Returning to the FBI example, their mission statement reads:

The mission of the FBI is to protect and defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners. It performs these responsibilities in a way that is responsive to the needs of the public and faithful to the Constitution of the United States.<sup>108</sup>

The DEA's mission statement is considerably longer, but the focus is the investigation, coordination of investigations, and seizure of assets related to violations of the federal Controlled Substance Act.<sup>109</sup> This theme of narrow investigative focus is prevalent throughout the mission statements of federal law enforcement agencies. With the

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<sup>107</sup> The last year the Bureau of Justice Statistics published their census on federal law enforcement employment was 2008.

<sup>108</sup> Federal Bureau of Investigation, "Frequently Asked Questions."

<sup>109</sup> Drug Enforcement Administration, "DEA Mission Statement," accessed June 2, 2016, <https://www.dea.gov/about/mission.shtml>.

exception of the U.S. Marshals during the nineteenth century, the federal government has never fielded a law enforcement agency to provide general police services.<sup>110</sup>

### Has the Federal Government Contributed to the Policing Profession?

The federal government's experience in policing has been polite indifference. As long as order is maintained, the federal government has sustained a hands-off approach. With no federal agency having a full-time general police services mission, no federal agency has cultivated a police skillset. As a result, the federal government has had no motivation to advance or innovate the police profession.

It could be argued that through DOJ oversight, specifically the use of consent decrees, the federal government is advancing the police profession. The author does not agree with this. Where the DOJ has interjected itself into policing, it is not offering anything new to the agency or profession. Using the DOJ's consent decree with the Los Angeles Police Department as an example, this consent decree focused on nine areas:

(1) Management and supervisory measures to promote Civil Rights Integrity, (2) Critical incident procedures, documentation, investigation, and review, (3) Management of Gang Units, (4) Management of Confidential Informants, (5) Program development for response to persons with mental illness, (6) Training, (7) Integrity Audits, (8) Operations of the Police Commission and Inspector General, and (9) Community outreach and public information.<sup>111</sup>

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<sup>110</sup> The literature review found that while U.S. Marshals provided general police services in the territories during the nineteenth century, it was not by design but rather a function of their often being the only government official available.

<sup>111</sup> Los Angeles Police Department, "Consent Decree Overview," accessed May 30, 2016, [http://www.lapdonline.org/search\\_results/content\\_basic\\_view/928](http://www.lapdonline.org/search_results/content_basic_view/928).



These consent decrees aim only to bring wayward police agencies and local governments back in line with the law and established practices.

When looking at the evolution and growth of the policing profession, there are no federal actors. The biggest contributors to policing knowledge such as August Vollmer, O.W. Wilson, and William H. Parker were local officers with no federal connection. The growth of the policing profession has taken place through the contributions of police professionals that is disseminated through such informal organizations as the IACP as well as formal organizations such as the CALEA.

### Conclusion

The federal government has no experience providing general police services. While the U.S. Marshals provided a degree of police services in the territories during the nineteenth century and federal troops policed the southern states during Reconstruction, the profession of policing has changed drastically. Since the nineteenth century, federal involvement in policing has largely been confined to helping restore order during riots or natural disasters.

The federal government has made no contribution to the growth of the police profession. Innovation has originated from police practitioners such as Augustus Vollmer, O.W. Wilson, and William H. Parker. The question of how the federal government has contributed to policing in the United States can be simply answered as, it has not.

Table 7. What is the Federal Experience with Policing?	
Experience Providing Police Services	-1
Contribution to the Growth of the Policing Profession	-1
TOTAL	-2

*Source:* Created by author.

### Analysis: Is There a Capabilities Gap?

When looking at the state of policing in the United States, is there currently a capabilities gap that a national police force would fill? This question will be analyzed from the perspective of whether there is a capabilities gap in general police services, as well as if there is a capabilities gap in emergency police services.

#### General Police Services

From a day- to-day maintenance of law and order perspective, there is no need for a national police force to fill. With no federal presence, the states and municipalities by necessity developed full-service police agencies capable of providing the full-range of police services. While federal law enforcement has expanded since the mid-1990s, state and local police personnel ratios have remained steady proportional to population growth. Per the most recent UCR figures (2014), all categories of crime are at a twenty-year low. Some violent crime categories have seen reductions of 50 percent or greater from 1995

figures.<sup>112</sup> It is reasonable to conclude that the nation's state and local police forces are sufficient to investigate and enforce violations of the criminal code.

### Emergency Police Services

In emergencies, there is a role that a national police force could play. History has shown that when overwhelmed by a breakdown in law and order through civil disturbance or natural disaster, state governments reach out for federal support. There are, however, limits to what the federal government can provide. While federal investigators (FBI, DHS, etc.) can be pressed into service in emergency situations, their training is not geared toward providing first responder capabilities. The deployment of federal troops is legally restrictive. The Use of Army and Air Force as a Posse Comitatus statute reads, “Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.”<sup>113</sup> This statute severely limits the ability to employ federal troops when there is a break down in law and order. In a 1976 ruling from the U.S. District Court of North Dakota in the case of *United States v. McArthur*, the court wrote, “It is the nature of the primary mission that military personnel must be

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<sup>112</sup> U.S. Department of Justice, Federal Bureau of Investigation, “Table 1, by Volume and Rate per 100,000, 1995-2014,” in *Crime in the United States, 2014: Unified Crime Reports* (Washington, DC: Government Printing Office, Fall 2015), accessed March 26, 2016, [https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-1/table\\_1\\_crime\\_in\\_the\\_united\\_states\\_by\\_volume\\_and\\_rate\\_per\\_100000\\_inhabitants\\_1995-2014.xls](https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-1/table_1_crime_in_the_united_states_by_volume_and_rate_per_100000_inhabitants_1995-2014.xls).

<sup>113</sup> 18 USC § 1385.

trained to operate under the circumstances where the protection of constitutional freedoms cannot receive the consideration needed in order to assure their preservation. The posse comitatus statute is intended to meet that danger.”<sup>114</sup>

In such cases, a national police force could surge into the affected area. There are multiple incidents over the last decade where a national police force could have responded. The question though is whether the abilities a national police force would provide are of great enough significance to be considered as filling a capabilities gap.

When Hurricane Katrina hit New Orleans, Louisiana, the New Orleans Police Department was overwhelmed. This was due to numerous factors such as their history of being underfunded and understaffed. Add to this the fact that many of the officers were victims of the storm as well and it is no surprise that the New Orleans Police Department was largely ineffective. While Active Duty military providing logistical support, National Guard units, and the civilian federal response is well documented, the response of the policing profession was not.

Police from around the nation converged on New Orleans. The NYPD convoyed 300 officers in eighty NYPD vehicles to the disaster area.<sup>115</sup> From the author’s personal knowledge, countless other officers from a variety of police and sheriff’s departments carpooled to New Orleans to help the effort. A contingency from the RCMP responded, by some accounts arriving in New Orleans before the Federal Emergency Management

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<sup>114</sup> *United States v. McArthur*, 419 F. Supp. 186 (D. N.D. 1976).

<sup>115</sup> Leonard Levitt, “NYPD Stopped in Virginia,” NYPD Confidential, September 30, 2005, accessed March 27, 2016, <http://www.nypdconfidential.com/columns/2005/050930.html>.

Agency.<sup>116</sup> While the response of the nation's police professionals was noble, their legal authority was dubious. In the event of a use of force situation, would the local authorities have adjudicated the incident with the out of town officers under the same legal processes afforded a police officer from Louisiana? More worrisome for the officers, would there have been any protection in the event of a civil lawsuit? Due to the *ad hoc* response of the police agencies that reacted, there does not appear to be a record of which police agencies responded, what legal authorities they operated under, what they did, or whether their contributions helped or hindered the overall effort. A national police force could have responded to New Orleans following Hurricane Katrina under their inherent authority as FLEOs and possible deputation under Louisiana state law. FLEOs deployed to Louisiana were deputized by state officials with the approval of the U.S. Attorney General under the authorities granted in the Emergency Federal Law Enforcement Assistance Act (42 USC 111§ 10501).<sup>117</sup> This allowed them to act under color of both federal and state law for the duration of their deputation.

Hurricane Katrina is not the only incident where a national police force could have been utilized. During the Ferguson riots, where the rioters were by most public

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<sup>116</sup> Russel S. Sobel and Peter T. Leeson, "Government's Response to Hurricane Katrina: A Public Choice Analysis," *Public Choice* 127, no. 1/2 (April 2006): 57, accessed March 27, 2016, [http://www.jstor.org.lumen.cgscarl.com/stable/pdf/30026772.pdf?\\_=1459132763353](http://www.jstor.org.lumen.cgscarl.com/stable/pdf/30026772.pdf?_=1459132763353).

<sup>117</sup> Townsend, 41; Under the Emergency Federal Law Enforcement Assistance Act, the Attorney General has the authority to deploy federal assets to state law enforcement emergencies upon receipt of a request from the governor of the affected state. It has been accepted that FLEOs deployed under the Emergency Federal Law Enforcement Assistance Act may accept deputation under state law if it is offered by an authorized state official.

accounts already predisposed to resent local law enforcement, a national police force could have been deployed under the authority of the Emergency Federal Law Enforcement Assistance Act and might have been able to enter the area as a neutral party. At the minimum, the ability to bring in officers with no emotional attachment to the neighborhoods involved could have been a public affairs win. Major events that stretch the resources of local police agencies (such as the United Nations General Assembly, presidential inaugurations, the 1996 Olympic Games held in Atlanta, etc.) are additional venues where a national police force could bolster police capabilities

Unlike general police services, where analysis suggests there is no place for a national police force, in emergency situations there does seem to be a place. However, would the support a national police force brings rise to the level of providing a service that is currently unfilled? It does not appear that it would. The law enforcement responses to Hurricane Katrina and the Ferguson riots were abysmal, and unfortunately were not isolated incidents. The literature review showed a history of poor responses to emergencies such as the Pullman Strikes, the Bonus Army riots, and the 1992 Los Angeles riots. However, there was a response and order was eventually restored. There is no guarantee that a national police force would have a large enough impact to significantly alter the equation in similar future disaster areas. As such, it seems that efforts would be better spent preparing existing personnel (Federal Emergency Management Agency, National Guard, etc.) rather than adding another layer of bureaucracy in the form of a full-time national police force.

Consider the White House after action report from Hurricane Katrina. Among the most critical problems that crippled the first responders was failure in the joint command

apparatus, destruction of communications infrastructure, and inability to provide health services.<sup>118</sup> While a national police force could have surged personnel, it could not have addressed any of these critical failures in the Katrina response. While the idea of surging federal police officers into a disaster area sounds good, when taking into account that it would add another command structure into the joint command apparatus, it starts to lose its appeal. The White House report put the role of the federal government in emergency response best when it said, “The Federal government cannot and should not be the Nation’s first responder. State and local governments are best positioned to address incidents in their jurisdictions and will always play a large role in disaster response.”<sup>119</sup>

### Conclusion

Would a national police force provide a currently unfilled role in law enforcement? At this time, there is nothing to suggest that a national police force is needed for either general police duties or emergency response. In day-to-day policing matters, the municipalities and states have managed for almost two centuries without a federal police presence. In emergencies, a national police force would certainly be useful, but in the end, it would just provide more personnel and not fill a capabilities gap.

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<sup>118</sup> Townsend, 52-59.

<sup>119</sup> Ibid., 52.

Table 8. Is There a Capabilities Gap?	
General Police Activities	-1
Emergency Police Activities	-1
TOTAL	-2

*Source:* Created by author.

### Analysis: Can the Organizational Structure Accommodate a National Police Force?

Can the existing organizational structure of the nation's police forces accommodate a national police force? Chapter 2 proposed that the nation's police agencies interact as a de-facto informal network. This section will consider whether a national police force could fit into that network without upsetting the established equilibrium. In addition, the work of sociologists Howard E. Aldrich and Martin Ruef, considers the compatibility of a national police force with the existing police profession through the dimension of goal direction.<sup>120</sup>

#### The National Police as a Network Node

One advantage of the network model is the ability to plug in or remove nodes to suit the network's overall needs. In the case of policing, this is frequently seen with the establishment of new police agencies, merging of others, and disbanding of those that

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<sup>120</sup> Howard E. Aldrich and Martin Ruef, *Organizations Evolving*, 2nd ed. (London, UK: Sage Publications, 2006), 4-5.



have outlived their usefulness. It seems reasonable that a national police force could likewise plug into this network. This is not to say that there would not be dangers.

Although a national police force could plug into the network that is comprised of the nation's police forces, it could also pose a danger to the health of the network. One key definition of a network organization is that it is non-hierarchical relying on voluntary and mutually beneficial cooperation between the peer nodes. It is conceivable that a national police force could try to take a hierarchical leadership role within the network. This could, as Hatch and Cunliffe explain, "lead to exploitation by partners who gain control of critical information or resources . . . In these situations one segment of the network holds the rest hostage."<sup>121</sup> While this is by no means a certainty, it is a danger that must be considered.

### Goal Direction

Goal direction describes the behavior, activities, and goals of the policing profession, as well as the sub-organizations (individual police departments, sheriff's offices, etc.) that comprise it. When setting organizational goals, leaders must consider conflict with not only peer organizations, but also organizations with no connection to policing or law enforcement.<sup>122</sup>

Police organizations do not operate in a legal bubble, but interact daily with the civilian bureaucracies and communities they serve. Often, the goals of these organizations are not complimentary. In extreme cases, they are in fact adversarial. Could

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<sup>121</sup> Hatch and Cunliffe, 308.

<sup>122</sup> Ibid., 4-5.

a national police force set their organizational direction while minimizing friction with other police agencies as well as non-law enforcement actors?

A national police force would probably interact well with other police agencies. There would undoubtedly be friction arising over jurisdictional intrusion to take a particular case or even jurisdictional shirking to avoid an unpleasant case. However, these phenomena already exist within the overarching law enforcement community. While there has been friction, it has not reached the level of the violent conflict between the New York City Police and New York Municipal Police seen during the 1850s. A national police force would most likely plug into the policing profession like any other police agency node and after a period of adjustment, the policing profession would integrate this new agency and move forward.

The area of concern for goal direction with a national police is whether remedies are available in the event of a conflict between the national police and a non-law enforcement body. If a national police is to completely engage the full spectrum of police activities established in chapter 1, there will be heavy interaction with local government officials. In the event of conflict between a city police officer and a city employee, the city has a hierarchy of command for resolving interdepartmental disputes. A national police force would stand outside of this chain. To whom would the city worker appeal in the event of conflict? As importantly, who can referee such a conflict if the departments involved cannot come to an agreement? In a city, the mayor's office can generally assume that role as the senior executive office of the municipality. As a federal agency, a national police force would not be accountable to a mayoral office. Unchecked, the danger of a national police force dictating policing policy to municipal and state

governments rather than working in partnership cannot be ignored. Going back to the RCMP case study in the literature review, one of the historical complaints has been a lack of accountability. While the establishment of the CRCC for the RCMP appears to have helped alleviate this, it is too soon to declare it a best practice.

### Conclusion

A national police force would fit within the structure of the nation's police profession. The goals of a national police force would be compatible with those of the nation's police agencies so while friction and professional rivalry can never be eliminated, there is little reason to believe it would negatively impact the ability to maintain law and order.

The issue of goal direction and accountability are of concern. One of the strengths of the current police model is they are locally accountable. Whether a national police force could be held accountable to the needs of the local government is unknown.

Table 9. Can the Organizational Structure Accommodate?	
National Police as a Node	+ 1
Goal Direction	0
TOTAL	+1

*Source:* Created by author.

## Conclusion

The purpose of this chapter was to analyze the secondary research questions utilizing the methodology established in chapter 3. A simplified decision support matrix was utilized in each secondary research question to visually summarize whether the results of that question spoke positively or negatively towards a national police force. The next chapter utilizes the findings from these secondary research questions to answer the question of whether the time has come for the nation to establish a full-time national police force.

## CHAPTER 5

### CONCLUSION AND RECOMMENDATIONS

#### Introduction

The purpose of this thesis is to answer the question of whether the United States needs a full-time national police force. This chapter aggregates the findings of the secondary research questions and presents the findings for the primary research question. This chapter concludes with recommendations for further research.

#### Findings

The purpose of this research project has been to answer the primary research question of whether the United States needs a full-time national police force. Through consolidation of the decision support matrix data created in chapter 4, the findings from the secondary research questions aggregate negatively.

Table 10. Does the United States Need a Full-time National Police Force?	
Does it appear legal for the federal government to establish a full-time national police force?	+1
Is it feasible for the federal government to establish a full-time national police force?	-2
How has the federal government contributed to policing in the United States?	-2
Would a national police force provide any currently unfilled need to the nation?	-2
Can the existing organizational structure of the nation's police forces accommodate a national police force?	+1
TOTAL	-4

*Source:* Created by author.

While the secondary research questions aggregate negatively, the distribution within the secondary research questions is more important. Yes, it appears that a full-time national police force would be legal and could most likely integrate into the nation's existing police structure. However, the strongest findings suggest that it would neither provide any currently unfilled need to the policing profession, nor be feasible.

When asking if the time has come for a full-time national police force the analysis of the research suggests that no, at this time the United States has no need for such an organization. Organizationally, there does not appear to be any insurmountable obstacles. Legally, it is permissible to create, but the legal authorities suggest its usefulness is dubious at best. Additionally, there does not appear to be a need. While there may be a use for a national police force as an emergency response asset, it does not appear to rise to the level of providing a role that other public agencies cannot fill. Finally, the willingness of the states to engage in such a venture is questionable in the current political climate. To create a new bureaucracy without a clear-cut operational need, with questionable legal authorities, and no public demand is neither logical nor a judicious use of the public coffers.

By contrast, state and municipal police agencies have extensive experience with providing police services to their constituencies spanning back almost 200 years in the case of the nation's oldest departments. Police innovation and professional development has originated out of these same local agencies. For these two reasons alone, there is a strong argument to be made to leave policing in the hands of those with the most experience. Writing on the state of law enforcement in the United States in 1954 and

referring specifically to the concentration of police functionality, FBI Director J. Edgar Hoover perhaps put it best when he wrote:

Any heavy centralization of a widely dispersed police system such as ours is utterly impractical. This fact is apparent when one considers law enforcement in a small or large community being controlled by authorities located at a distance from the scene, who are thus necessarily insensitive to the pulse of the community. Central supervision at either the federal or state level can only result in impairing the vitality of local enforcement.<sup>123</sup>

#### Areas for Further Research

There was a deliberate effort to research a full-time national police force from an operational perspective focusing on legal, organizational, and functional topics. As stated in chapter 1, the economic and social impact of a full-time national police force were omitted to the largest extent possible. Both of these topics deserve dedicated research in the event the nation ever explores the idea of a national police force.

Throughout this thesis, the term full-time national police force is repeatedly used. In the early months of this research, there was no full-time before national police force, as it did not seem necessary. As the research concluded, it became evident that while the analysis skewed towards there being no need for a full-time national police force, perhaps there was room for a part-time national police force; specifically, a reserve national police force capable of activation as needed. Drawing from actively employed and certified police officers nationwide, such an organization could be deputized by the U.S. Marshals, which have a history of deputizing state and local police personnel assisting

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<sup>123</sup> John Edgar Hoover, "The Basis of Sound Law Enforcement," *The Annals of the American Academy of Political and Social Sciences* 291, New Goals In Police Management (January 1954): 42, accessed November 29, 2015, <http://www.jstor.org/stable/1030336>.

federal authorities on term appointments. A part-time national police force could mobilize for emergency and national security events that the research identified as a current vulnerability in the nation's police capabilities. Furthermore, such an organization could potentially deploy overseas as subject matter experts to assist Department of Defense and Department of State personnel with rule of law and capacity building in developing nations.

### Final Thoughts

The idea of a full-time national police force has some appeal. In the law enforcement community, federal agencies generally have the best facilities, the best equipment, and the best pay. The nation is full of career police officers and sheriff deputies who pass on a federal career for the simple fact they do not want to give up the public interaction they currently enjoy and the sense of personal fulfillment that police work instills. The idea that a national police force could attract some of this talent and consolidate it into one organization is appealing. There is perhaps even a touch of conceit. As a profession, American police have no single organization to strive towards or point to as the pinnacle of the police profession. Nor does the nation have one police organization that, at least nationally, is viewed as representative of the American policeman such as the RCMP constable for Canadian policemen.

Unfortunately, the reality of a national police force is not as appealing once you dig into the specifics. Constitutionally, the federal government can create the organization, but it cannot unilaterally give it the state legal authorities necessary to make it useful. Even if the states agreed to yield such jurisdiction to the federal government, there would be constitutional questions as to whether the states have that authority.



Operationally, the research showed that the policing profession has managed without a national police force. There is also the concern that, given time, a national police force would bloat into a bureaucracy beset by internal strife and inefficiency.

When this project began, the author bounced the research concept off a friend who is approaching his twenty-year anniversary in policing. He has no interest in moving into federal law enforcement specifically because he wants to work in local policing, though he would quickly clarify that he is a chief deputy and not a police officer. In typical style, his answer was both succinct and unambiguous, “That would be a short paper for me: No.”<sup>124</sup> During the initial drafting of chapter 1 and chapter 2, the author would have debated this point with him. However, as the research matured it pointed more and more towards him being correct. Despite the superficial attractiveness of a national police force, the details do not support a need for such an organization.

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<sup>124</sup> Lee Weems, Facebook Messaging, December 6, 2015, accessed May 14, 2016, <https://www.facebook.com/>.

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